No. 99-1908

IN THE

Supreme Court of the United States

JAMES ALEXANDER, *in his official capacity as the Director of the Alabama Department of Public Safety*, and the ALABAMA DEPARTMENT OF PUBLIC SAFETY,
Petitioners,

v.

MARTHA SANDOVAL,
Individually and on Behalf of All Others Similarly Situated,
Respondents.

On Writ of Certiorari To The United States Court of Appeals for the Eleventh Circuit

BRIEF FOR PETITIONERS

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QUESTION PRESENTED

In enacting Title VI of the Civil Rights Act of 1964 under its Spending Clause powers, did Congress authorize individuals to bring private rights of action against States under disparate-impact regulations promulgated by federal agencies?

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JURISDICTION

The court of appeals entered its judgment on February 29, 2000. Petitioners filed their petition for writ of certiorari on May 30, 2000. Jurisdiction in this Court exists under 28 U.S.C. § 1254(1).

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

Article I, § 8 of the United States Constitution provides in part:

> "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States."

U.S. Const. art. I, § 8.

Section 601 of Title VI of the Civil Rights Act of 1964 provides:

> "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

42 U.S.C. § 2000d.

Section 602 of Title VI provides:

> "Each Federal department and agency which is empowered to extend federal financial assistance to any program or activity, by way of grant, loan, or contract

other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however*, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

42 U.S.C. § 2000d-1.

The relevant regulation of the Department of Justice reads as follows:

"A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of persons to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of persons to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or other methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin."

28 C.F.R. § 42.104(b)(2).

STATEMENT

Just as all litigants presume that they must present their arguments to the Court in English, so the state and federal governments have long presumed that they may impose an assortment of English-fluency requirements on the privilege of participating in other governmental and private functions. Be it the privilege of obtaining a driver's license, a pilot's license, or a boating license, or indeed the privilege of becoming a citizen of the United States at all, the state and federal governments traditionally have conditioned these benefits on proficiency in a common language. In claiming that adherence to this tradition in the context of an English-proficiency requirement for obtaining a driver's license violates a disparate-impact regulation promulgated by federal agencies under Title VI of the Civil Rights of 1964, the Eleventh Circuit mistook a pragmatic exercise of the local police power for an act of discrimination.

More fundamentally, the decision to imply a private cause of action against a State on the basis of an administrative regulation fails to respect the independent role of the States in the National Government. In establishing a system of "dual sovereignty" to divide and disperse governmental power, (*Gregory v. Ashcroft*, 501 U.S. 452, 457 (1991)), the Constitution gives the state and federal governments broad latitude to supervise their own employees and to advance the police-power objectives of their own regulatory programs. The preservation of these dual lines of authority and accountability, however, precludes one sovereign from casually regulating the other. States for example may not regulate the sovereign activities of the federal government at all, whether by legislation or agency rules. *See McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316 (1819). And much as an uncabined state authority to regulate the national government would establish a "power to destroy" its independence in the federal scheme, *id.* at 431, the Constitution's structural safeguards place limitations on when and how Congress may regulate state functions, *see Gregory*, 501 U.S. at 459 ("'Power being almost always the rival of power, the general government will at all times stand ready to check the usurpations of the state governments, and these will have the same disposition towards the general government.'") (quoting The Federalist No. 28, at 180-81 (Clinton Rossiter ed., 1961)).

To preserve this delicate federal-state balance and to ensure that "power" remains always "the rival of power," the Constitution carefully circumscribes Congress's authority to bend state sovereignty to its will. Just three sources of constitutional power exist for regulating state functions—the Commerce Clause, the Fourteenth Amendment, the Spending Clause—and each invocation of power must adhere to carefully-prescribed limitations on its exercise. Here, for example, Congress invoked the Spending Clause, which generally allows it to condition federal funding on a State's waiver of constitutional immunity as well as on a State's

willingness to implement a federal regulatory program that Congress could not otherwise directly command it to enforce. *See Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1 (1981). In exercising this unique power, however, the National Legislature must adhere to its end of the procedural bargain. It must give an "unmistakably clear" textual warning of what these federal conditions are and of how they will be enforced. *Id. See South Dakota v. Dole*, 483 U.S. 203 (1987).

In this instance, the Court faces an exercise of Spending-Clause authority that conspicuously fails to respect these protocols. The claim assumes that a federal agency may establish a disparate-effect test by regulation, even though Congress has not done so by statute. The claim assumes that an individual may enforce this regulation, even though neither the statute nor regulation offers any hint that this was intended. The claim assumes that this disparate-effect regulation may eliminate an English-proficiency requirement, even though this Court has never equated such laws with discrimination on the basis of national origin. And the claim assumes that Congress may silently ban this everyday exercise of the state police power, even though the Federal Government itself has many similar requirements, if not far more of them than the State of Alabama has.

This sweeping innovation proves not just the lack of merit to respondent's claim, but also illustrates the long-term risk of failing to adhere to the Court's political-process limitations on the exercise of federal power. States like the federal government are not ordinary civil defendants. When Congress wishes to regulate the States, it thus must respect an "etiquette of federalism," *United States v. Lopez*, 514 U.S. 549, 583 (1995) (Kennedy, J., concurring, joined by O'Connor, J.), including the inter-branch imperative that Congress (not a federal agency) speak directly and clearly before it decides to upset the constitutional equilibrium between state and federal power. Yet the serial implications and inferences required to

sustain this assumption of regulatory authority confirm the degree to which this claim fails to respect that etiquette and, with it, the States' sovereign status in the federal system.

A. The English-Proficiency Requirement.

In 1990, the people of Alabama ratified an amendment to their Constitution. Under Amendment 509, they declared English "the official language of the state of Alabama," and required the legislature and government officials to take all steps necessary to ensure that "the role of English as the common language of the state of Alabama is preserved and enhanced." No one, including respondent, has challenged the validity of this amendment.

In the aftermath of this amendment and in accordance with its terms, the Alabama Department of Public Safety determined that it would no longer administer state driving-license examinations in any language other than English. Not only did this change comply with the requirements of Amendment 509 and not only did it avoid the demeaning assumption that adult residents of the State were unable to learn English when they put their mind to it, but it also had the virtue of advancing public safety. As the State explained at trial and as State law attests, the overriding police-power objective of testing applicants before giving them permission to drive is to ensure that they are capable of driving safely. *See* Ala. Code § 32-4-2; Trial Transcript (2/17-18/98) ("Tr.") at 312; Alabama's Memorandum in Support of Motion for Summary Judgment (10/24/97) ("Ala. Memo."), Ex. C, ¶ 8 and Ex. D, ¶ 11. An ability to understand road signs, together with an ability to communicate with law enforcement and medical personnel, all support requiring Alabama drivers to be fluent in English. Joint Appendix ("J.A.") at 29-30. A contrary approach, it was also determined, was difficult to administer. An endless number of potential languages exist in which applicants may wish to be tested, and the State has finite resources when it comes to administering such a broad array of tests. Tr. 312-14; J.A. at

30; *cf.* Tr. 253-54. Because none of the Department's employees is fluent in a foreign language, the Department itself also cannot monitor foreign language examinations and any translations of examinations accordingly must come from outside the Department, which is time consuming, potentially expensive and fraught with risks to the integrity of the examination. Tr. 276, 281, 312-14; *see* Ala. Memo. at Ex. D, ¶¶ 6 & 9; *cf.* Tr. 252-54. The State, lastly, found it difficult to identify a principled way for offering examinations in some languages but not in others. J.A. at 30.

B. The Federal Government's English-Proficiency Requirements.

Alabama is not alone in promoting English fluency. The United States also has many laws, programs and jobs that require proficiency in English. These requirements start with the question of who may and who may not become a citizen of the United States, continue with the language of the United States Code, and extend to innumerable other areas as well. The federal government requires those seeking naturalization to have "an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language." 8 U.S.C. § 1423(a). The federal government also requires those wishing to sit as federal jurors to be able "to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form" and to be able "to speak the English language." 28 U.S.C. § 1865(b). This Court's rules also require any record "material written in a foreign language" to be translated into English. *See* Sup. Ct. R. 31.

When it comes to the types of transportation-safety issues presented in this case, the federal government has adopted several other like-minded requirements. Under its licensing requirements for commercial motor carrier vehicle drivers, the United States Department of Transportation provides that "[a] person is qualified to drive a motor vehicle if" he or she "[c]an

read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records." 49 C.F.R. § 391.11(b). To qualify as an "able seaman" on a United States vessel, the applicant must "[s]peak and understand the English language as would be required in performing the general duties of able seaman and during an emergency aboard ship." 46 C.F.R. § 12.05-3(a). And all pilots, whether recreational or commercial, must "[b]e able to read, speak, write and understand the English language." 14 C.F.R. § 61.83 (student pilot); 14 C.F.R. § 61.96(b) (recreational pilot); 14 C.F.R. § 61.103 (private pilot); 14 C.F.R. § 61.123 (commercial pilot); 14 C.F.R. § 61.153 (airline transport pilot); 14 C.F.R. § 61.183 (flight instructor). The same is true of flight engineers, 14 C.F.R. § 63.31, flight navigators, 14 C.F.R. § 63.51, and air traffic controllers, 14 C.F.R. § 65.33.

The national government also has several programs designed to promote English proficiency. It thus (1) provides funding for "adult education" "to help individuals of limited English proficiency achieve competence in the English language," including proficiency in "speaking, reading, writing, or understanding the English language," 20 U.S.C. §§ 9202(1), (6) & (10); (2) provides funding for "special alternative instructional program[s]" that "utilize[] specially designed English language curricula and services but do[] not use the student's native language for instructional purposes," a program designed to "enable[] limited English proficient students to achieve English proficiency," 20 U.S.C. §§ 7601(15)(A) & (B); (3) provides vocational funding to States that "[p]rovide assurances" that they will "assist[] students . . . of limited English proficiency . . . to succeed through supportive services such as . . . English-language instruction," 34 C.F.R. § 403.190; (4) and provides funding to Indian Tribes "to coordinate the provision of any needed

special services for conditions such as disabilities and English language skill deficiencies." 20 U.S.C. § 7835(a)(4)(B).

C. State English-Language Requirements.

All States have joined Alabama and the United States in one way or another in establishing English-language requirements. *See* Appendix. Many States for example have constitutional and statutory provisions making English the official language of the State. *See, e.g.,* Alaska Stat. § 44-12.310; Ariz. Const. art. 28, § 1; Cal. Const. art. 3, § 6; Colo. Const. art. 2, § 30a. And the number of state laws requiring English proficiency or its use in official communications is anything but discrete. Product-labeling requirements, articles of incorporation, licensing requirements for veterinarians, pharmacists, physical therapists and professional counselors, official government communications and filings, loan terms, jury qualifications, eligibility for state office or the state legislature, the records of scrap-metal dealers and podiatry examinations, among countless others, all require the use of English or proficiency in the language. *See* Appendix.

D. Alabama's Programs for Teaching English Proficiency.

Individuals who live in Alabama have access to a host of private and public initiatives designed to teach proficiency in the English language. First and foremost, the State guarantees a free public education to all of its residents, whether they were born in this country or not, whether English is their first language or not. This primary and secondary education gives most residents of Alabama an equal opportunity to become proficient in English long before eligibility for a driving-license examination becomes a relevant issue in their lives. *See* Art. XIV, § 256, Alabama Constitution of 1901; *Alabama Coalition for Equity v. Hunt*, 1993 WL 204083 (Ala. Cir. Ct. 1993); *see also, Opinion of the Justices*, 624 So. 2d 107 (Ala. 1993). The State has several remedial programs, some in

partnership with the federal government and some not, that offer adults an opportunity to develop fluency in English. These include programs at public colleges and universities that offer courses in English as a second language. *See* http://www.usouthal.edu/usa/secondlang/index.html (University of South Alabama—English Language Center); http://www.auburn.edu/esl (Auburn Univ.—English as Second Language; with community programs at /community.html); http://www.ua.edu/academic/intenational/eli (University of Alabama English Language Institute). And several privately-sponsored programs offer courses in English as a Second Language, and again do so at little to no cost to the student. Tr. 20, 33-34, 55-56, 133-34, 144. Access to these English-language programs is available to all Alabama residents, including those residents who live in Mobile where respondent has chosen to live. *Id.*

E. The Federal Spending Program.

Alabama participates in a host of cooperative spending programs with the federal government. Through these programs, Alabama receives millions of dollars each year in federal grant funds from a diverse group of federal agencies.

At issue here are several grants that Alabama receives from the United States Department of Transportation and Department of Justice. These federal monies support several specific public-safety objectives, from the eradication of marijuana to road-construction projects to highway beautification. J.A. at 31-32. None of these federal grants, however, is earmarked for the proper licensing of drivers in general or the licensing examinations that such drivers should receive in particular. Tr. 5. The most closely related grant to the issues raised here was made by the United States Department of Transportation, National Highway Traffic Safety Administration, for the purpose of helping Alabama make the "necessary data processing and procedure modifications to their driver licensing system" to permit

Alabama to participate in the National Driver Register system. State's Memorandum in Support of Motion for Summary Judgment (10/24/97), Ex. I. That system links all state driver-licensing databanks to improve state procedures for identifying high-risk applicants who should be denied licenses. *Id.* While this grant does not address the testing of applicants for driving licenses, it does include an obligation to "comply with all Federal statutes relating to nondiscrimination," including "Title VI of the Civil Rights Act of 1964 (P. L. 88-352) which prohibits discrimination on the basis of race, color, or national origin." *Id.* This compliance provision does not make any reference to regulations promulgated under Title VI.

In contrast, a grant from the Federal Highway Administration to support a motor carrier assistance program included the condition that the Alabama Department of Public Safety not only comply with Title VI but also with

> related nondiscrimination statutes, and applicable regulatory requirements to the end that no person in the United States shall, on the grounds of race, color, national origin, sex, handicap or age, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity for which the applicant/recipient receives Federal financial assistance. The specific requirements of the United States Department of Transportation standard Civil Rights assurances with respect to the States' highway safety programs (required by 29 C.F.R. 21.7 and on file with the U.S. DOT) are incorporated in this grant agreement.

Plaintiffs' Opposition to Motion for Summary Judgment (11/25/97), Ex. 27. This grant in other words sought compliance both with Title VI and with "related nondiscrimination statutes and applicable regulatory requirements" and did so with respect to "any program or activity for which the applicant/recipient receives Federal financial assistance." Neither the grant nor the applicable

regulations, however, say that the regulations may be enforced by private individuals against States in federal court.

To date, no agency of the federal government has sought to enforce Title VI, its regulations or any other federal "nondiscrimination" statute against the Alabama Department of Public Safety with regard to its practice of giving driving-license examinations in English. Whether it be the federal grant for the National Driver Register system, the grant for the motor carrier public system or any other grant, the federal government has yet to ask Alabama voluntarily to abandon this testing system or to do so as a condition of receiving future federal funds.

F. Title VI.

Enacted as part of the Civil Rights Act of 1964, Title VI contains two relevant sections. Section 601 sets forth and defines the Title's anti-discrimination provision. It says that State recipients of federal funding may not "discriminat[e]" against persons "on the ground of race, color, or national origin" or "exclude[] from participation in" or "den[y] the benefits of" any federally-funded program on these grounds.

Section 602 is an implementation provision, and contains three essential parts. The first section delegates to federal agencies rulemaking authority to "effectuate" Section 601. 42 U.S.C. § 2000d-1. The second provision sets forth agency guidelines for obtaining compliance with section 601. It says that "[c]ompliance" may be effected (1) by "termination" of funding or (2) "by any other means authorized by law." *Id.* The third section establishes a procedural rule for determining non-compliance, including notice to the state agency, a requirement that the federal agency seek compliance initially by voluntary means, a reporting mechanism for alerting Congress that a federal agency is considering the termination of federal funding, and a 30-day delay between the time notice is given to Congress of an agency-enforcement decision and the

implementation of that decision. *Id.* By their terms, neither Section 601 nor Section 602 provides for independent private-party enforcement actions against States for regulatory violations.

In implementing Title VI, the Departments of Justice and Transportation have promulgated a variety of rules under Title VI. The Department of Justice rule that respondents have invoked here says that a "recipient . . . may not . . . utilize criteria . . . which have the effect of subjecting persons to discrimination because of their race, color, or national origin." 28 C.F.R. § 42.104(b)(2); J.A. at 10. The Department of Transportation has a similar rule. 49 C.F.R. § 21.1. Neither of these disparate-impact rules nor any other empowers private individuals to enforce the regulations by suits against States in federal court.

G. Proceedings Below.

On December 31, 1996, Martha Sandoval filed a class action on behalf of herself and other similarly-situated individuals against the Alabama Department of Public Safety and its then-Director, L. N. Hagan, in his official capacity. She alleged that the Department's English-proficiency requirement for taking a driving-license examination violated her right to be free from discrimination on the basis of national origin, a right that she claimed was secured by 42 U.S.C. § 1981, 42 U.S.C. § 1983, the Equal Protection Clause of the Fourteenth Amendment, Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d, *et seq*, and one of Title VI's implementing regulations, 42 C.F.R. §§ 42.104(b)(1) and (2) (1996). In doing so, she sought a judgment declaring that the Department's practice was unlawful and an injunction prohibiting the Department from continuing to give driving-license examinations only in English. *See* J. A. at 10.

The district court certified a plaintiff class consisting of "all legal residents of the State of Alabama who are otherwise

qualified to obtain a class D private vehicle driver's license but cannot do so because they are not sufficiently fluent in English." J. A. at 19. Following a trial, the district court granted the requested declaratory and injunctive relief. "The following factors," the court indicated, "lead"

> to the finding that a private right of action may be brought pursuant to regulations enacted pursuant to § 2000d-1: (1) the implicit reasoning of the Supreme Court in *Guardians*, *Alexander*, and *Lau*; (2) the implicit reasoning of the Eleventh Circuit in *Elston* and *Georgia State Conference*; (3) the implicit reasoning of the Eleventh Circuit in *Doe* and *Harris* (Title VI in conjunction with the regulations); (4) the explicit reasoning of the Third Circuit in *Seif* and the reasoning of other courts that have addressed the issue, and (5) the Department's contractual guarantees.

Pet. App. at 117a. The district court also concluded that, "[a]lthough no court has explicitly held that language is a proxy for national origin," language could be equated with national origin through a disparate impact theory. Pet. App. at 158a. The court rejected the Section 1981 claim and did not reach the equal-protection claim.

The Eleventh Circuit affirmed. Recognizing that the Supreme Court "has yet to squarely answer the question" whether Title VI creates an implied cause of action for disparate-impact claims, Pet. App. at 42a, the Court started by looking at Section 601. "To state a Section 601 claim," the appellate court observed, "just like a claim arising under the Equal Protection Clause of the Fourteenth Amendment, a plaintiff must establish the funding recipient's discriminatory intent." Pet. App. at 34a. In addition, the court continued, Section 602 authorizes federal agencies to promulgate rules to "effectuate" Section 601. *Id.* Noting that the respective agencies had promulgated disparate-impact regulations under Section 602, the court framed the "central issue presented" as

whether private individuals "may enforce these agency regulations against [the State] absent any express statutory authorization." Pet. App. at 37a.

In holding that an "implied private cause of action" existed to enforce these regulations, the panel relied on four factors. First, it felt that circuit precedent supported this implied private right of action. Pet. App. at 37a-39a. Second, "the only other circuit to have addressed the issue in detail"—the Third Circuit—also found a private right of action based on "Title VI's legislative scheme and legislative history." Pet. App. at 41a.

Third, it thought that the Court's decisions in *Lau*, *Guardians*, and *Alexander*, though not "squarely" addressing the issue, "logically support[ed]" an "implied private cause of action" under Section 602 of Title VI. *Id.* at 42a. Although "*Lau* rested its holding under Section 601 of Title VI," the court of appeals concluded that its "reasoning" applied with equal force to claims under Section 602 of Title VI. *Id.* at 43a. *Guardians*, the court believed, was to the same effect: While it "did not explicitly address whether an implied private right of action existed under Section 602," the analysis of five of the Justices writing separately "strongly supports recognizing such a right." *Id.* at 44a. The court acknowledged that *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978) and *United States v. Fordice*, 505 U.S. 717 (1992), were inconsistent with the disparate-impact right of action that *Lau* seemed to permit. Nevertheless, it concluded that an aggregation of the "plurality members" of the Court in *Guardians* "strongly suggest[s] the existence of an implied private cause of action under Section 602," Pet. App. at 46a, and that *Fordice* would not have "overruled *Guardians* without any discussion of its precedent," *id.* at 47a n.24. Lastly, the court observed that "plaintiffs relied on Section 602 directly rather than basing their cause of action on Section 1983," and so were not in a position

to rely on that statute as a source of their cause of action. *Id.* at 45a n.21.

SUMMARY OF ARGUMENT

In holding that "Title VI creates a private implied cause of action" against States "to enforce the disparate impact regulations promulgated under Section 602," Pet. App. at 42a, the court of appeals committed reversible error. Language, context, bedrock Spending-Clause principles, and precedent all confirm that Congress at most empowered federal agencies, but not private individuals, to enforce these regulations against States in the context of generally-applicable English-proficiency requirements.

1. Title VI does not support this cause of action.

a. Two bookend principles frame the question presented, and go a long way toward answering it. In asking whether a private action exists, the "most important inquiry" is whether plaintiffs can meet their "burden" of demonstrating that "Congress intended to create the private remedy sought by" them in federal court. *Suter v. Artist M.*, 503 U.S. 347, 364 (1992). And in the context of an action against a State under Congress's Spending-Clause powers, this "most important inquiry" turns on whether Congress "unambiguously" created the private action, *Pennhurst State School v. Halderman*, 451 U.S. 1, 17 (1981), "in the language of the statute," *Vermont Agency of Natural Resources v. United States ex rel. Stevens*, 120 S. Ct. 1858, 1870 (2000).

b. The terms of Title VI do not create a disparate-impact test enforceable by private parties in federal court, to say nothing of doing so unambiguously. Section 601 bars "discrimination" "on the ground of race, color, or national origin," 42 U.S.C. § 2000d, a standard that covers only intentional-discrimination, not disparate-impact, claims. *See United States v. Fordice*, 505 U.S. 717, 732 n.7 (1992); *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978). Nor

does Section 601 authorize private individuals, as opposed to the federal government, to enforce compliance with its requirements under agency regulations in the course of implementing cooperative Federal-State programs.

Section 602 is of no assistance either. It does not create any rights at all, but merely delegates rulemaking authority to federal agencies to "effectuate" the anti-discrimination provision of Section 601. This unremarkable grant of authority does not authorize executive-branch agencies to make impermissible by regulation what Congress has made permissible by statute. Nor does this grant of authority permit private enforcement of its terms. Section 602's carefully-prescribed rules for compelling "compliance" with Section 601 all mandate exactly the opposite conclusion. They compel initial notice to the State of non-compliance, an attempt to obtain voluntary compliance, an administrative hearing to establish non-compliance, notice to Congress of a desire to bring the State into compliance, and then and only then an agency termination of funding or an action by the Department of Justice to achieve compliance. A Congress so rigorous in its oversight of federal agencies would not silently empower private individuals to circumvent every one of these requirements through federal-court actions premised on rules passed by the very agencies Congress elsewhere was trying to monitor.

2. Neither *Chevron* deference, the implied right of action doctrine, *Lau*, nor *Guardians* leads to a contrary result.

a. Having failed to show that Sections 601 and 602 of Title VI establish a disparate-impact cause of action enforceable against States by private individuals, respondents may not rely on principles of *Chevron* deference to permit executive-branch agencies to create this cause of action on their own. The statutory ambiguity that triggers *Chevron* deference comes *after*, not *before*, the application of all pertinent rules of statutory construction, including the interpretive presumption

against the creation of private causes of action against States and including of course this Court's decisions that Section 601 does not cover disparate-impact claims. At any rate, the unambiguous statutory directive that *Pennhurst* requires precludes private enforcement of the ambiguity-prompted regulation that the Department of Justice claims authority to innovate. Otherwise, every clear-statement case the Court has ever decided stands just one ambiguity-clarifying regulation away from irrelevance. Lastly, even on its own terms, the disparate-impact regulation does not suffice to support this claim the State. It nowhere mentions and nowhere creates such a private right of action.

b. For many of the same common-sense reasons that *Chevron* regulations may not themselves satisfy the clear-statement rule, neither does the "implied" cause of action test announced in *Cort v. Ash*, 422 U.S. 66 (1975), satisfy this requirement. What *Cort* allows federal courts to do with statutory implications and inferences in actions against private entities, *Pennhurst* positively proscribes in actions against States under federal regulations.

Nor in any event can respondents shoulder the burden of meeting the four-part *Cort* test under this administration regulation. Far from creating a right in favor of individuals who do not speak English, Title VI merely bars the kind of intentional discrimination barred by the Fourteenth Amendment, which has never included the notion that English-language requirements represent a proxy for discrimination on the basis of national origin. Even then, moreover, the statute just imposes a "generalized duty on the State, to be enforced not by private individuals, but by the Secretary in the manner" laid out by the statute. *Suter*, 503 U.S. at 363-64. No part of the legislative history indicates, or even hints, that Title VI was designed to bar generally-applicable English-fluency requirements, including those that the National Government itself has long embraced. *Cort*, 422 U.S. at 78. And if the

sovereign choice to use a common language in providing government services and to decide when and how to administer driving-license examinations do not represent the types of policy issues that are "traditionally relegated to state law," it is difficult to imagine what would meet this test. *Id.*

c. The Court's Title VI decisions do not support a contrary analysis. *Lau v. Nichols*, 414 U.S. 563, 566 (1974), relied "solely" on Section 601 and assumed that it barred disparate-effect, as well as intentional-discrimination, claims. Since then, the Court has made clear that Section 601 proscribes only what the Fourteenth Amendment proscribes, *see Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978), *United States v. Fordice*, 505 U.S. 717, 732 n.7 (1992), a standard that does not cover disparate-impact claims. In *Guardians Ass'n v. Civil Service Commission of the City of New York*, 463 U.S. 582 (1983), six members of the Court wrote separately, and agreed only on announcing a judgment that a lower-court decision *refusing to implicate* a Title VI private cause of action should be affirmed.

ARGUMENT

While the structural guarantees of the United States Constitution inform the resolution of this dispute, the case ultimately turns on a matter of statutory interpretation, not constitutional power. Alabama does not challenge Congress's authority to attach conditions to the receipt of federal funds. And it acknowledges that one of those conditions generally may be the requirement that States subject themselves to causes of action by private individuals for violations of germane federal requirements developed in connection with the spending program. The question here is whether the Federal Government established any such condition and whether it did so with respect to disparate-impact claims brought by third parties in federal court arising from generally-applicable English-language requirements. As the court of appeals recognized, this "Court has yet to squarely answer the

question." Pet. App. at 42a. And while that observation is accurate, the straightforward terms of the pertinent statutes and regulations, together with first principles of this Court's spending-power jurisprudence, all confirm that the court of appeals erred in further finding that an implied cause of action exists in this instance and under these regulations.

I. TITLE VI DOES NOT CREATE A PRIVATE CAUSE OF ACTION AGAINST STATES FOR DISPARATE-IMPACT VIOLATIONS ARISING FROM GENERALLY-APPLICABLE ENGLISH-PROFICIENCY REQUIREMENTS.

In determining whether Congress has created a private right of action against public or private litigants, the Court has consistently held that the "most important inquiry" is one of congressional will. *Suter v. Artist M.*, 503 U.S. 347, 364 (1992). Have plaintiffs satisfied their "burden" of proving that "Congress intended to create the private remedy sought by" them in federal court? *Id.* Absent this showing, it is clear, the Court "will not engraft a remedy on a statute, no matter how salutary, that Congress did not intend to provide." *California v. Sierra Club*, 451 U.S. 287, 297 (1981). *See Transamerica Mortgage Advisors, Inc. v. Lewis*, 444 U.S. 11, 15-16 (1979) ("what must ultimately be determined is whether Congress intended to create the private remedy asserted").

In keeping "the focal point" on "Congress' intent in enacting the statute," *Thompson v. Thompson*, 484 U.S. 174, 179 (1988), the Court applies customary rules of statutory interpretation to ascertain congressional meaning. Here, the most pertinent of those rules stems from the nature of the action (an individual claim against a State) and the source of congressional power (the Spending Clause). In this setting, the Court has made clear that Congress must "unambiguously" create the cause of action, *Pennhurst State School v. Halderman*, 451 U.S. 1, 17 (1981), "in the language of the statute," *Vermont Agency of Natural Resources v. United States ex rel. Stevens*, 120 S. Ct. 1858, 1870 (2000). Congress, however, has done neither in this instance.

A. To Create A Private Cause of Action Against States in the Context of Spending-Clause Legislation, Congress's Intent Must Be "Unambiguously" Expressed in the Language of the Statute.

In enacting Title VI, Congress invoked its Spending Clause power. Under this authority "to . . . provide for the . . . general Welfare," U.S. Const. Art. I, § 8, "Congress may attach conditions on the receipt of federal funds, and has repeatedly employed the power to further broad policy objectives by conditioning receipt of federal moneys upon compliance by the recipient with federal statutory and administrative directives." *South Dakota v. Dole*, 483 U.S. 203, 206 (1987) (internal quotation omitted). In exercising this power, neither Article I's "enumerated legislative fields," *id.* at 207 (internal quotation omitted), nor the "Tenth Amendment limitation on congressional regulation of state affairs," *id.* at 210, generally cabins the National Legislature's authority. Because "Congress may fix the terms on which it shall disburse federal money to the States," *Pennhurst State School and Hospital v. Halderman*, 451 U.S. 1, 17 (1981), it may deploy this authority to induce States to establish programs that it could not otherwise compel them to enact. *Cf., e.g., Printz v. United States*, 521 U.S. 898, 935 (1997) ("Congress cannot compel the States to enact or enforce a federal regulatory program."); *New York v. United States*, 505 U.S. 144, 178 (1992) ("No matter how powerful the federal interest involved, the Constitution simply does not give Congress the authority to require the States to regulate.").

Yet the constitutional explanation for this sweeping grant of power defines its outer limits. Compliance with Spending-Clause legislation remains a matter of choice: "[T]he States are given the choice of complying with the conditions set forth in

the [legislation] or forgoing the benefits of federal funding." *Pennhurst*, 451 U.S. at 11. For this reason, the Court has recognized that "legislation enacted pursuant to the spending power is much in the nature of a contract: in return for federal funds, the States agree to comply with federally imposed conditions." *Id.* at 17. The Court's description of Spending-Clause legislation as a contract establishes a useful metaphor for characterizing this lawmaking power and captures precisely the constitutional basis upon which Congress may use this authority to induce States indirectly to act in a manner that it could not require directly.

Because "[t]he legitimacy of Congress' power to legislate under the spending power thus rests on whether the State voluntarily and knowingly accepts the terms of the 'contract,'" *Pennhurst*, 451 U.S. at 17, the Supreme Court has repeatedly held that "if Congress desires to condition the States' receipt of federal funds, it 'must do so unambiguously . . . , enabl[ing] the States to exercise their choice knowingly, cognizant of the consequences of their participation,'" *Dole*, 483 U.S. at 207 (*quoting Pennhurst*, 451 U.S. at 17). *See also Gebser v. Lago Vista Indep. Sch. Dist.* 118 S. Ct. 1989, 1997 (1998) (requiring "actual notice" of failure to adhere to spending-contract obligations). "[S]tringent" adherence to these rules (*Atascadero State Hosp. v. Scanlon*, 473 U.S. 234, 241 (1985)) eliminates the possibility that the States will be treated as constructively (rather than explicitly) waiving their sovereign powers whenever they accept federal funds. *See College Sav. Bank v. Florida Prepaid Postsecondary Educ. Expense Bd.*, 527 U.S. 666 (1999) (overruling the "constructive-waiver" doctrine). In the final analysis, the rule that "Congress must express clearly its intent to impose conditions on the grant of federal funds," *id.* at 24, ultimately limits the reach of Congress's power under the Spending Clause and ultimately serves to preserve the "'constitutional balance between the States and the Federal Government.'" *Will v. Michigan Dep't*

of State Police, 491 U.S. 58, 65 (1989) (*quoting Atascadero*, 473 U.S. at 242).

B. Title VI Does Not Meet These Clear-Statement Requirements.

Measured against this test, respondents' effort to imply a right of action under a federal regulation fails. The language of Title VI simply does not support this right of action, and that alone suffices to reject this contention under the Court's clear-statement requirements.

1. Section 601 Does Not Create Any Such Cause of Action.

> "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Civil Rights Act of 1964, § 601, 42 U.S.C. § 2000d.

By any recognizable standard of meaning, Section 601 does not empower private individuals to bring disparate-impact claims against State governments. Still less does it do so with regard to generally-applicable laws requiring proficiency in English. In barring State recipients of federal funding from "discriminati[ng]" against persons "on the ground of race, color, or national origin," the provision merely proscribes what the Equal Protection Clause proscribes. It thus bars intentional-discrimination, not disparate-impact, claims. *See United States v. Fordice*, 505 U.S. 717, 732 n.7 (1992); *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265, 287 (1978) (opinion of Powell, J.); *id.* at 328 (Brennan, J., concurring in the judgment in part and dissenting in part, joined by White, J., Marshall, J., Blackmun, J.). *See also Washington v. Davis*, 426 U.S. 229 (1976). By its terms, the core provision of Title VI neither expressly establishes a private cause of

action against States nor establishes a disparate-impact standard of care.

2. Section 602 Does Not Create Any Such Cause of Action.

Section 602 is equally unavailing. It does not create a cause of action, and indeed does not create any rights at all. One component of the section, moreover, implies (if not directs) that private-enforcement actions against funding recipients may not be prosecuted under agency regulations.

The Section 602 Framework. The first component of Section 602 delegates rulemaking authority to applicable federal agencies to "effectuate" Section 601. In doing so, it gives them authority to implement Title VI spending-power programs through administrative regulations.

> "Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of Section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President."

Civil Rights Act of 1964 § 602, 42 U.S.C. § 2000d-1.

The second section sets forth guidelines to the relevant federal agencies for obtaining compliance with Section 601.

> "Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law."

Id.

And the third section contains procedural rules for establishing compliance under any of these options, including notice to the state agency, a requirement that the federal agency seek compliance initially by voluntary means, and a reporting mechanism for alerting Congress that a federal agency is considering the termination of federal funding.

> "*Provided, however*, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report."

Id. The next provision of Title VI—Section 603—permits judicial review of these agency decisions, both through actions by private individuals and by funding recipients. 42 U.S.C. § 2000d-2.

Section 602 Does Not Permit This Cause of Action. Whether looked at together or singly, all three components of Section 602 fail to authorize the challenge to Alabama's driving-license examination that Ms. Sandoval has filed here. Instead of establishing a different standard of care from Section 601, the provision merely allows federal agencies to "effectuate" section 601 by promulgating regulations. But it does not authorize federal agencies to create rules barring disparate effects arising from generally-applicable state programs that occur "merely in spite of," rather than "because of," an individual's national origin. *See Personnel Adm'r of Mass. v. Feeney*, 442 U.S. 256, 279 (1979) (internal quotation omitted).

An effort to bar disparate effects arising from such generally-applicable laws would not "effectuate" the objectives of Title VI, but would rewrite them. "Such regulations do not simply 'further' the purpose of Title VI; they go well beyond that purpose." *Guardians Ass'n v. Civil Serv. Comm'n of the City of New York*, 463 U.S. 582, 613 (1983) (O'Connor, J., concurring in the judgment); *id.* at 611 n.5 (Powell, J., concurring in the judgment) ("Administrative agencies do not have—and should not have—such lawmaking power"). It suspends reality to infer that Congress would statutorily *authorize* State action that disproportionately affects an identifiable group on the basis of national origin, then permit an executive-branch agency to *ban* such conduct through a private right of action under an administrative regulation. To our knowledge, the Court has never credited Congress with such an awkward state of mind. And, in many cases, the Court has refused to embrace any such view of congressional will. *See, e.g., Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274, 284 (1998) ("we generally examine the relevant statute to ensure that we do not fashion the parameters of an implied right in a manner at odds with the statutory structure and purpose"); *id.* at 292 ("the failure to [comply with the rule] does not itself constitute 'discrimination' under Title IX"); *id.* ("[w]e have

never held . . . that the implied private right of action under Title IX allows recovery in damages for violation of those sorts of administrative requirements"); *Central Bank, N.A. v. First Interstate Bank, N.A.*, 511 U.S. 164, 173 (1994) ("the private plaintiff may not bring a 10b-5 suit against a defendant for acts not prohibited by the text of section 10(b)"); *FCC v. Am. Broad. Co.*, 347 U.S. 284, 296 (1954).

Making matters worse for respondents' claim, Congress elsewhere has specifically created disparate-effect standards of liability in other statutory settings. *See, e.g.*, 12 U.S.C. § 4545(1) (mortgage lending); 20 U.S.C. § 1703(c) (school desegregation); 42 U.S.C. §§ 1973a, 1973a(b) (voting rights); 42 U.S.C. § 2000e-2(k) (Title VII); 42 U.S.C. §§ 12112(b)(3)(A) &12182(b)(1)(D)(i) (Americans with Disabilities Act); 12 U.S.C. §§ 1831u(a)(3)(B)(i) & 1831x(h) (banking); 15 U.S.C. § 6701(c)(2) (insurance); 42 U.S.C. § 1396b(m)(5)(A)(iii) (Medicaid). These enactments and others prove not just the ease with which such tests may specifically be established, but also demonstrate that the legislature knows how directly to mandate these far-reaching requirements when it wishes.

Even aside from the implausibility of making impermissible by regulation what is permissible by statute, Section 602 does not offer the slightest indication that Congress meant private parties to carry out the enforcement of such regulations. Quite the opposite is true. All efforts to bring States into "compliance" with Section 601 must follow a detailed procedure established by Section 602. First, the state entity must be "advised" by the federal agency of its failure to follow Title VI. Second, the federal agency must "determine[]" whether "compliance can[] be secured by voluntary means." Third, in the event the federal agency opts to "terminat[e], or refus[e] to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section," the agency "shall file with the committees of the House and

Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action." Fourth, no termination action may go into effect until at least 30 days after this formal report has been filed. Fifth, Section 603 specifically authorizes judicial review of the *agency's* implementation decisions, whether by grant recipients or alleged third-party beneficiaries of the grant. 42 U.S.C. § 2000d-2.

As these oversight rules suggest, the Congress that enacted Title VI did not contemplate adherence to its requirements through private enforcement actions premised exclusively on agency regulations, as opposed to suspension of funding after a "hearing" or some other means implemented by the pertinent federal agency. It makes little sense to credit Congress with imposing strict requirements on federal agencies for bringing States into compliance, then to assume that all of these requirements evaporate if private individuals try to establish that compliance through enforcement of a rule that one of these same agencies promulgated. A Congress concerned with the former would not lightly allow the latter.

Nor does the alternative compliance provision—that the agency may obtain compliance "by any other means authorized by law"—change things. Congress, to be sure, permitted compliance to be accomplished either (1) by termination of funding after a "hearing," or (2) by "any other means authorized by law." Read in context, however, the "any other means" option is just that: Authorization to the federal government itself to use "any other means" to obtain compliance, not a delegation to any private individual to obtain compliance through an agency rule. The "any other means" option thus allows other federal-government actions against fund recipients, most frequently actions initiated by the Department of Justice on behalf of an agency.

Any doubt on this score is removed by the placement of the "any other means" option in Section 602. The statute

requires *both* compliance mechanisms established by Congress—funding termination or "any other means"—to follow the procedural prerequisites established by the all-encompassing proviso to Section 602. After listing these two compliance options, Congress gave this unequivocal mandate: "Provided, however, That *no such action* shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means." (Emphasis added). Both types of compliance actions in other words must follow the oversight obligations placed on the pertinent agency—something that never happened here. The Justice Department rules reflect this very interpretation. They say that an "action to effect compliance by any other means authorized by law shall" not be taken "until" (1) the "responsible Department official has determined that compliance cannot be secured by voluntary means," (2) the action has been "approved by the Attorney General," and (3) the recipient of federal funds has been "notified of its failure to comply and of the action to be taken to effect compliance." 28 C.F.R. § 42.108(d). Under these circumstances, it is difficult to apprehend how the "any other means" option could support this independent right of action.

The legislative history also fails to advance respondents' claim. As the Court has held in comparable clear-statement settings, "legislative history has no bearing" here because the "unequivocal expression" must be "an expression in statutory text." *United States v. Nordic Village*, 503 U.S. 30, 37 (1992). "If clarity does not exist there, it cannot be supplied by a committee report." *Id.* At all events, the 1964 legislative history is utterly silent about disparate-impact standards of care, about English-proficiency requirements, and about a delegation of authority to federal agencies to create private rights of action that the Congress has not.

At the end of the day, a Congress that spoke with such care about what an agency of its own government could do in "effectuat[ing]" the objectives of Section 601 surely would not silently authorize private third parties to challenge State actions with no guidance whatsoever. Section 602's careful elaboration of a framework for obtaining compliance together with its ear-splitting silence authorizing private-enforcement actions against States under agency rules defeats respondent's claim. *See Transamerica Mortgage Advisors, Inc. v. Lewis*, 444 U.S. 11, 19 (1979) ("it is an elemental canon of statutory construction that where a statute expressly provides a particular remedy or remedies, a court must be chary of reading others into it").

II. RESPONDENTS' CONTRARY ARGUMENTS ARE MISTAKEN.

A. *Chevron* Deference Does Not Advance This Claim.

Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984), does not shore up these deficiencies in respondents' claim. Under *Chevron*, it is true, a federal agency charged with implementing a statutory program is given deference in promulgating regulations that clarify ambiguities in a statute. And the Department of Justice, it is also true, was given authority in Title VI to establish rules that "effectuate" Section 601. But, as shown above, the Court has already clarified that Title VI covers only intentional-discrimination, not disparate-impact, claims. *Bakke* and *Fordice* in short leave no ambiguity for the agencies to clarify. Even on a clean slate, moreover, ambiguity on this issue would be lacking here. As *Chevron* itself recognized, the statutory ambiguity that triggers administrative deference comes at the end, not at the beginning, of the search for statutory meaning—which is to say, *after* application of the clear-statement rule and other applicable interpretive principles. *Chevron*, 467 U.S. at 843 n.9. Applied here, those interpretive

rules eliminate the discretion-giving ambiguity that lends *Chevron* force.

But even if one somehow assumes that the Justice Department's disparate-impact regulation permissibly fills an interstitial gap in the statutory scheme, still another problem exists. Namely, an administrative regulation may never by itself supply the kind of clear statement that the Court's spending-power cases require. The clear statutory language that the *Pennhurst* canon of construction requires precludes the ambiguity-prompted regulation that the Department of Justice has claimed authority to innovate. The doctrine of *Chevron* deference simply has no tenable application to the setting of statutes that themselves do not clearly identify a standard of care applicable to state governments (or, worse, actually contradict that standard). Otherwise, every clear-statement case the Court has ever decided was simply an administrative regulation away from establishing the clarity that precedent demands.

This extension of *Chevron* would mean that the statutory ambiguity in the Fair Labor Standards Act in *Employees of the Department of Public Health and Welfare v. Missouri Department of Public Health and Welfare*, 411 U.S. 279 (1973), would have allowed the applicable federal agency to clarify that the FLSA applies to all state employees. It would mean that the statutory ambiguity in the Developmentally Disabled Assistance Act in *Pennhurst State School & Hospital v. Halderman*, 451 U.S. 1 (1981), would have allowed the applicable federal agency to promulgate a regulation requiring least-restrictive treatment. It would mean that the statutory ambiguity in *Atascadero State Hospital v. Scanlon*, 473 U.S. 234 (1985), would have allowed the applicable agency to pass a regulation clarifying that States could be exposed to money damages. It would mean that the statutory ambiguity in *Will v. Michigan Department of State Police*, 491 U.S. 58 (1989), would have allowed an executive-branch agency to determine

that States were "persons" under Section 1983. It would mean that the statutory ambiguity in *Gregory v. Ashcroft*, 501 U.S. 452 (1991), would have allowed an executive-branch agency to make the federal age discrimination laws applicable to state judges. And it would mean that the statutory ambiguity just last Term in *Vermont Agency of Natural Resources v. United States ex rel. Stevens*, 120 S. Ct. 1858 (2000), would have allowed an executive-branch agency to determine that States were "persons" under the *qui tam* provisions of federal law.

Nor may the United States insulate itself from the consequences of this analysis. This extension of *Chevron* thus would mean that the statutory ambiguity in *Lane v. Pena*, 518 U.S. 187 (1996), would have allowed an executive-branch agency to determine that the United States was subject to money-damages claims under Title II of the Americans with Disabilities Act. The same is true of other statutes. *See, e.g., United States v. Nordic Village*, 503 U.S. 30 (1992).

To state the problem this way, it seems to us, is to answer it. *Chevron* does not trump this time-respected canon, which is applicable to the Federal Government and States alike, converting a requirement of clear statement into one of clear silence.

This interpretation of *Chevron* also cannot be squared with one of the central justifications for allowing regulation of the States in the first instance. The principal explanation for *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528 (1985)—that States protect their self-interest through their representatives in Congress—is of no help to the National Government here. If the States must be held accountable for exercising their political muscle in the Halls of Congress, surely Congress must be precluded from seizing such power beneath the radar of textually-mandated requirements or, worse, silently leaving it to the whim of an executive-branch agency to make these decisions. The Constitution nowhere permits Congress to delegate authority to the Executive Branch to decide when,

where, and whether to divest the States of authority, and to do so in such an indeterminate and unguided way. It should not be permitted to do so here.

Lastly the agency regulations, even on their own terms, do not supply the requisite clarity that the text of Title VI is so conspicuously missing. The disparate-effect rule adopted by the Department of Justice just says the following:

> "A recipient, in determining the type of disposition, services, financial aid, benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin."

28 C.F.R. § 42.104(b)(2).

Doubtless this regulation purports to impose a disparate-effect test on state recipients of federal funding. It says that a "recipient . . . may not . . . utilize criteria . . . which have the effect of subjecting persons to discrimination because of their race, color, or national origin." Yet even assuming that the agency has authority to promulgate this regulation, it nowhere empowers private individuals—unambiguously or otherwise—to enforce the regulation by suits in federal court. This theory, too, must fail.

B. The Court's Implied Cause Of Action Cases Do Not Support This Action.

1. *Cort v. Ash* Cannot Be Reconciled With The Court's Clear-Statement Requirements.

Just as *Chevron* deference has no application to a regulatory standard that the text of a statute does not clearly establish, neither does *Cort v. Ash*, 422 U.S. 66 (1975), permit Congress to "imply" a cause of action against States that the National Legislature did not unambiguously establish. The invocation of *Cort v. Ash* thus does not support respondents' position.

Cort v. Ash did not involve a State defendant and it did not involve an agency regulation. It instead arose in the context of a claim that federal securities laws implicitly created a cause of action in favor of one private citizen (a disgruntled shareholder) against another private citizen (the chairman of the company's board of directors). In rejecting the claim, *Cort* established a four-factor balancing test for discerning when Congress (not federal agencies) meant to create a cause of action that it did not specifically provide for in the underlying statute. These factors are:

> "First, is the plaintiff one of the class for whose especial benefit the statute was enacted, that is, does the statute create a federal right in favor of the plaintiff? Second, is there any indication of legislative intent, explicit or implicit, either to create such a remedy or to deny one? Third, is it consistent with the underlying purposes of the legislative scheme to imply such a remedy for the plaintiff? And finally, is the cause of action one traditionally relegated to state law, in an area basically the concern of the States, so that it would be inappropriate to infer a cause of action based solely on federal law?"

Id. at 78.

Neither the concept of a *Cort v. Ash* claim in general nor the four-part balancing test for establishing the action in particular tenably apply to States in the context of Spending-Clause legislation. The very title of the *Cort v. Ash* test—an "implied" private right—fails to respect the interpretive principles that the Court has identified in this area of Federal-State sensitivity. And the four-part inquiry does not improve matters. It variously asks whether Congress "implicit[ly] . . . create[d] such a remedy," whether it is consistent with the statute and legislative history "to imply such a remedy" and whether state-law considerations make it inappropriate "to infer" such a cause of action. The implications and inferences that *Cort v. Ash* allows are anathema to the "unambiguous" expression that *Pennhurst* requires. In the context of a claim by an individual against a State in federal court, the *Cort v. Ash* inquiry thus must give way to the *Pennhurst* clear-statement requirement.

Nor has the Court ever held to the contrary. To our knowledge, the Court has never ruled that the rigorous *Pennhurst* clear-statement imperative may be satisfied through the casual *Cort v. Ash* inquiry in the context of a regulatory claim against a State. In point of fact, one Spending-Clause decision involving an action filed by an individual against a State, *Suter v. Artist M.*, 503 U.S. 347 (1992), appears to reconcile the *Pennhurst* and *Cort* lines of authority in much the way advocated here. In *Suter* individuals sought declaratory and injunctive relief against state officials in federal court, claiming violations of the "reasonable efforts" mandate of the Adoption Assistance and Child Welfare Act. In bringing the action, claimants argued that the Act created enforceable rights under section 1983 and alternatively that the Act created an implied right of action against the officials under *Cort v. Ash*. The Court applied a virtually identical analysis in rejecting each claim.

Starting with section 1983, the Court recognized that, in the context of Spending-Clause legislation, *Pennhurst* precludes a cognizable right from arising under section 1983 unless "Congress . . . do[es] so unambiguously" in the underlying statute. 503 U.S. at 356 (quoting *Pennhurst*, 451 U.S. at 17). *See id.* at 357 (framing the question presented as whether "Congress, in enacting the Adoption Act, unambiguously confer[red] upon the child beneficiaries of the Act a right to enforce the requirement" of the statute). Ultimately, the Court concluded that the Act "does not unambiguously confer an enforceable right upon the Act's beneficiaries". Rather, "[t]he term 'reasonable efforts' in this context is at least as plausibly read to impose only a rather generalized duty on the State, to be enforced not by private individuals, but by the Secretary in the manner" laid out in the statute. *Id.* at 363.

After addressing the section 1983 claim in this fashion, the Court reasoned that the claim the "Act contains an implied right of action for private enforcement may be disposed of quickly." *Id.* at 363. Briefly, the Court observed that "[t]he most important inquiry here as well is whether Congress intended to create the private remedy," then reasoned that "[a]s discussed above, we think that Congress did not intend to create a private remedy for enforcement of the 'reasonable efforts' clause." *Id.* at 364. In applying the same analysis to both claims, *id.* ("here as well," "[a]s discussed above"), *Suter* confirms that the *Pennhurst* clear-statement requirement does not evaporate simply by the expediency of invoking *Cort v. Ash*.

In the final analysis, the clear-statement that *Pennhurst* requires applies with equal force to Spending-Clause claims prosecuted under *Cort v. Ash*—particularly with regard to claims brought solely under agency rules. Accordingly, in the absence of an "unambiguously" mandated statutory standard of care and an "unambiguously" created statutory cause of action,

no private enforcement is permitted. Respondent cannot meet this test.

2. This Regulatory Cause of Action Fails Even To Satisfy *Cort v. Ash*.

Nor at any rate does respondents' claim satisfy the requirements of *Cort v. Ash*. Respondents do not meet one of its four requirements.

"First, is the plaintiff one of the class for whose especial benefit the statute was enacted, that is, does the statute create a federal right in favor of the plaintiff?" *Cort*, 422 U.S. at 78. Far from creating a federal right in favor of non-English speaking individuals, the statute is coterminous with the Fourteenth Amendment and bars only disparate-treatment claims stemming from "discrimination" "on the ground of . . . national origin." This Court has never held that discrimination on the basis of language fluency represents a proxy for discrimination on the basis of national origin. "[T]he statute" simply does not create any such "federal right."

"Second, is there any indication of legislative intent, explicit or implicit, either to create such a remedy or to deny one?" *Id.* The extensive administrative enforcement scheme laid out in the statute, together with the notice and voluntary-compliance options required under it, evidence a design to deny such a private remedy, particularly a regulatory one. And the absence of statutory evidence establishing a remedy for non-English-speaking individuals presented with English-speaking requirements cements this conclusion.

"Third, is it consistent with the underlying purposes of the legislative scheme to imply such a remedy for the plaintiff?" *Id.* No. Not one piece of legislative evidence, whether in the statute itself or in its legislative history, offers any indication that generally-applicable English-proficiency rules would violate the statute. And the existence then, as well as the existence now, of federal English-proficiency requirements

makes any such design exceedingly implausible. Congress deserves more credit than to have silently banned a practice at the state level that it has long embraced at the federal level.

"And finally, is the cause of action one traditionally relegated to state law, in an area basically the concern of the States, so that it would be inappropriate to infer a cause of action based solely on federal law?" *Id.* Case law makes clear that the answer is yes. Driving licenses are state-law privileges, not rights, and the Court has long recognized that States have a "paramount interest . . . in preserving the safety of its public highways" and that they have "great leeway in . . . protect[ing] public health and safety." *Mackey v. Montrym*, 443 U.S. 1, 17 (1979). *See also Dixon v. Love*, 431 U.S. 105, 114 (1977) (recognizing the "important public interest in safety on the roads and highways").

Even beyond these four *Cort* inquiries, the disparate-effect regulation contains a separate implied-right-of-action flaw. The agency rule starts by saying that State grantees "may not . . . utilize criteria or other methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin." 28 C.F.R. § 42.104(b)(2). A Department of Justice regulation then elaborates that whether a state practice has an impermissible disparate effect is ultimately a matter of reasonableness. In the agency's words:

> Where a significant number or proportion of the population eligible to be served or likely to be directly affected by a federally assisted program (e.g., affected by relocation) needs service or information in a language other than English in order effectively to be informed of or to participate in the program, the recipient shall take *reasonable steps*, considering the scope of the program and the size and concentration of such population, to provide information in appropriate languages to such persons.

42 C.F.R. § 42.405(d)(1) (emphasis added).

This regulatory requirement is insufficiently specific to create a private cause of action, as opposed to a ground for (at best) agency enforcement. *See Suter*, 503 U.S. at 360 (concluding that the requirement of "reasonable efforts" was unenforceable where there was "[n]o further statutory guidance . . . as to how 'reasonable efforts' are to be measured"); *cf. Blessing v. Freestone*, 520 U.S. 329, 345 (1997) ("Enforcement of such an undefined standard"—a right to "substantial compliance" with the federal standard—"would certainly 'strain judicial competence'") (quoting *Livadas v. Bradshaw* 512 U.S. 107, 132 (1994)).

The problem is, every law has a disparate impact on someone. No method of running government "has yet been devised which is free of all discriminatory impact." *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 41 (1973). And across-the-board efforts to regulate disproportionate impacts wherever federal dollars appear would "be far reaching and would raise serious questions about, and perhaps invalidate, a whole range of tax, welfare, public service, regulatory, and licensing statutes," *Washington v. Davis*, 426 U.S. 229, 248 (1976)—many of which have their own salutary purposes and effects. The wide range of disparate-impact challenges brought so far under the Title VI regulations, to say nothing of those that will be filed if this claim is recognized, bear out this risk. Private citizens have brought challenges under these regulations to the validity of entire school-funding systems of the States, *Powell v. Ridge*, 189 F.3d 387 (3d Cir. 1999), *cert. denied*, 120 S. Ct. 579 (1999), to the validity of student proficiency and graduation requirements, *Cureton v. National Collegiate Athletic Ass'n*, 198 F.3d 107 (3d Cir. 1999), to the validity of the relocation of businesses and government services, *Bryant v. New Jersey Department of Transportation*, 987 F. Supp. 343 (D.N.J.), *vacated in part*, 998 F. Supp. 438 (D.N.J. 1998), to the validity of bus and subway fare increases, *New York Urban*

League, Inc. v. Metropolitan Transportation Authority, 905 F. Supp. 1266 (S.D.N.Y.), *vacated and remanded*, 71 F.3d 1031 (2d Cir. 1995), and to the validity of real property tax assessments, *Coleman v. Seldin*, 687 N.Y.S.2d 240 (N.Y. Sup. Ct. 1999). Against the backdrop of these lawsuits and numerous others, it provides cold comfort to governmental officials to know that the expense of defending these lawsuits can be ended once they take "reasonable steps" to eliminate all disparate impacts arising from generally-applicable laws. The absence of guidance regarding this far-reaching standard not only will "strain judicial competence," but it also proves that *Cort v. Ash*, even on its own terms, does not support this cause of action.

C. The Court's Title VI Decisions Are Not Inconsistent With, And Indeed Support, This Analysis.

Continuity and change, it is true, have marked the Court's decisions interpreting Title VI and other statutes modeled after it. But at no point has the Court held that federal agencies may innovate private rights of action that Congress itself did not create. Through 26 years of decisions, whether in the context of Title VI or other federal-spending statutes, the Court has never held that agencies may assume this unique authority and has never held that this assumption of authority may be squared with the *Pennhurst* clear-statement requirement. The Court should not do so now.

Claimants argued below, and will presumably argue here, that *Lau* and *Guardians* authorize these private causes of action. Yet, as both the court of appeals and district court appeared to recognize, that is not case. *See* Pet. App. at 42a (appellate court recognized that this Court "has yet to squarely answer the question"); Pet. App. at 117a (district court relied only on this Court's "implicit reasoning").

Start with *Lau v. Nichols*, 414 U.S. 563 (1974). In 1973, the San Francisco public school system compelled all children between the ages of six and 16 to attend public school while at the same time providing "special English instruction" to "no more than 1,707 of the 3,457 Chinese students" who "spoke little or no English." *Id.* at 564 n.1 & 566. In the face of a program that "foreclosed . . . any meaningful education," *id.* at 566, claimants challenged the school district's failure to "rectify the situation" under the Equal Protection Clause and Title 601 of the Civil Rights Act of 1964, which the Court characterized as barring "discriminat[ion] against racial groups." *Id.* at 565.

In granting relief to claimants because the "school system . . . denies them a meaningful opportunity to participate in the educational program," *Id.* at 568, *Lau* engaged in a truncated analysis. Instead of addressing the constitutional claim, the decision "rel[ied] solely on section 601" in analyzing the program. *Id.* at 566. Then, in construing Section 601, *Lau* did not ask whether the statutory standard paralleled the constitutional standard or even whether the statute created a cause of action in favor of plaintiffs. It did not ask whether the creation of a statutory cause of action and the standard of care under it needed to be expressly stated or could be implied. It did not clarify whether the disparate-effect regulation or several other education-specific regulations controlled the analysis. And it did not ask whether regulations may impose a standard that the statute expressly does not.

Time has not been kind to the *Lau* analysis. While an instinct of invalidity may well surround the dilemma that the school children faced and while the result in *Lau* may well be justified on other grounds, *see* The Bilingual Education Act, 20 U.S.C. §§ 7402(b), 7403, 7421, 7422-25, *Lau*'s interpretation of section 601 no longer remains good law. Two years after *Lau*, the Court held that the Equal Protection Clause bans only intentional discrimination, not disparate-effect discrimination.

Washington v. Davis, 426 U.S. 229 (1976). And two years after that, the Court squarely rejected the contention that Section 601—the "sole[]" statutory basis for *Lau*, 414 U.S. at 566—proscribes disparate-effect claims. *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978). In his opinion, Justice Powell concluded that "Title VI must be held to proscribe only those racial classifications that would violate the Equal Protection Clause." 438 U.S. at 287. And Justices Brennan, White, Marshall, and Blackmun likewise concluded that "Title VI's definition of racial discrimination is absolutely coextensive with the Constitution's." *Id.* at 352. These observations were far from casual. A conclusion in *Bakke* that Title VI barred more than the Constitution would have doomed any form of affirmative action. Even the use of race as one of a number of factors that an admissions department may consider and that five Justices separately approved would still deny federally-funded benefits on "the ground" of race.

In *Guardians Ass'n v. Civil Service Commission of the City of New York*, 463 U.S. 582 (1983), "[s]even Members of the Court agree[d] that a violation of the statute itself requires proof of discriminatory intent." 463 U.S. at 608 n.1. And other members of the Court indicated that *Lau* no longer was good law. *See id.* at 611 & n.4 (Powell, J., concurring) in the judgment (*Lau* "reach[ed] its conclusion essentially without supporting reasoning," and the *Bakke* "construction" of Title VI "necessarily requires rejection of the prior decision in *Lau*"); *id.* at 615 (O'Connor, J., concurring in the judgment) ("In my view, the logical implications of [the *Bakke*] interpretation require that *Lau* be overruled"). By 1992, to the extent doubt still remained on this score, the Court eliminated it in *United States v. Fordice*, 505 U.S. 717, 732 n.7. "Our cases make clear, and the parties do not disagree," the Court held, "that the reach of Title VI's protection extends no further than the Fourteenth Amendment."

More than just a misapprehension about the scope of Section 601, however, undercuts *Lau*'s precedential value. Perhaps because many of these points were not argued in *Lau*, the decision fails to consider a host of relevant statutory-interpretation questions that later decisions require. It does not consider whether Congress meant to create a private right of action under Title VI; it does not consider what the appropriate standard for establishing such a cause of action would be; it does not consider the degree of statutory clarity needed to establish such a cause of action; and it does not consider whether an agency may create a cause of action and right that the Congress did not. When all is said and done, the *Lau* framework no longer states the correct law in this area.

Nor do the six opinions in *Guardians Ass'n v. Civil Service Commission of City of New York*, 463 U.S. 582 (1983), present a controlling theory for addressing this issue or again address many of the arguments raised here. At issue in *Guardians* was not an English-proficiency requirement but a race-discrimination claim. Black and Hispanic police officers claimed that the New York City police department's entry-level written examinations had a discriminatory impact on them, and filed a suit on that basis under Title VI and its implementing regulations. The court of appeals rejected the claim on the theory that Title VI required proof of discriminatory intent. Five Justices of the Court, in separate opinions, ultimately affirmed that judgment, though they did so on a variety of different "grounds." *Id.* at 584.

Justice White, joined by Justice Rehnquist, expressed the view that there was only a limited cause of action to enforce Title VI regulations. They reasoned that "relief in private [disparate impact] actions should be limited to declaratory and injunctive relief ordering future compliance with the declared statutory and regulatory obligations." *Id.* at 598. Justice Powell, joined by Chief Justice Burger, concurred in the

judgment, concluding that no private right of action to enforce the regulations could be implied. They explained:

> The legislative history of Title VI is replete with references to the Act's central purpose of ensuring that taxpayers' money be spent nondiscriminatorily. In accord with this purpose, Congress expressly provided for perhaps the most effective of all remedies in a federal funding statute: the cutting off of funds. In addition, it created a carefully constructed administrative procedure to ensure that such withholding of funds is ordered only where appropriate. In light of these factors, I do not believe that Congress intended to authorize private suits but failed to do so through some inadvertence.

Id., 463 U.S. at 609-10 (Powell, J., concurring in the judgment) (internal citations and footnote omitted). Justice Powell also believed that the regulations could not create a right not contained in the statute. *Id.* at 611 n.5 ("Administrative agencies do not have -- and should not have -- such lawmaking power"). Justice O'Connor concurred in the judgment on the ground that the agency could not create a disparate-effect cause of action. Because Title VI requires a showing of intentional discrimination, she concluded, the agencies exceeded their authority in promulgating disparate-impact regulations. *Id.* at 612-15 (O'Connor, J., concurring in the judgment).

Instead of looking to the opinions of these five Justices who concurred in the judgment dismissing plaintiffs' disparate-impact claim, the Eleventh Circuit aggregated Justice White's opinion with the separate dissenting opinions. Together, the court of appeals concluded, these writings produce a majority of Justices for the proposition that private plaintiffs may bring causes of action under the Title VI regulations. Pet. App. at 44a. This method of opinion reading, however, is a discredited one. *See United States v. Morrison*, 120 S. Ct. 1740, 1757 (2000); *Agostini v. Felton*, 521 U.S. 203, 217 (1997). The

only holding in the case is that private plaintiffs *were not* permitted to bring their claims against a city government. Far from supporting the court of appeals' analysis, the *Guardians* judgment is consistent with the analysis urged by Alabama here. The same is true of the Court's more recent Title VI decision in *Fordice*:

> Private petitioners reiterate in this Court their assertion that the state system also violates Title VI, citing a regulation to that statute which requires States to "take affirmative action to overcome the effects of prior discrimination." 34 C.F.R. § 100.3(b)(6)(i) (1991). Our cases make clear, and the parties do not disagree, that the reach of Title VI's protection extends no further than the Fourteenth Amendment. [Citing *Bakke* and *Guardians*] We thus treat the issues in these cases as they are implicated under the Constitution.

Id. at 732 n.7.

While neither *Lau* nor *Guardians* answers the question presented today, that is not to say that the Court necessarily must invalidate these disparate-impact regulations in order to reject respondents' claim. The central issue here is whether private citizens may enforce these regulations against States in federal court. No doubt the inquiry into congressional intent that animates the private-right-of-action question shares similarities with, if not parallels, the inquiry into the validity of an administrative regulation. Yet it remains possible that the regulations may be enforced by executive-branch agencies. After all, the extensive procedural protections that Congress put in place to guard against over-zealous enforcement of Title VI by federal agencies may suffice to show that Congress meant to allow the agencies to create disparate-impact rules for their own enforcement, just not for enforcement by private citizens.

Like *Lau* and *Guardians*, other decisions interpreting other statutes do not foreclose the analysis we have advanced either. No doubt decisions interpreting Title IX and Section 504 of the Rehabilitation Act of 1973, both partly modeled after Title VI, have implied (or seemed to imply) private rights of action. *See, e.g., Alexander v. Choate*, 469 U.S. 287 (1985) (Rehabilitation Act); *Cannon v. University of Chicago*, 441 U.S. 677 (1979) (Title IX). And no doubt *Cannon* suggested, without deciding the issue, that Section 601 of Title VI permits an implied right of action for intentional-discrimination claims. *See Cannon*, 441 U.S. at 702 n.33; *see also Gebser*, 118 S. Ct. at 1994. The *Cannon* suggestion also may have been codified in the Rehabilitation Act Amendments of 1986, which were designed to abrogate the States' immunity from suit in Title IX, the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act, Title VI and "any other Federal statute prohibiting discrimination by recipients of Federal financial assistance." P.L. 99-506, Title X § 1003, 100 Stat. 1845, 42 U.S.C. § 2000d-7. But these developments in no way extend to implied private rights of action premised on agency regulations. *Cannon*, for example, did not apply a clear-statement rule, did not involve a disparate-impact claim, and above all did not enforce a regulatory right but a statutory one. The Rehabilitation Act Amendments of 1986 specifically refer only to "suit[s]" under "Federal statute[s]," 42 U.S.C. § 2000d-7(a)(1), and "suit[s] against a State for a violation of a statute," *id.* at 2000d-7(a)(2). They say nothing at all about private rights of action under regulations.

Alexander v. Choate is no more helpful. It concluded that the Rehabilitation Act, unlike Title VI, reached "action that discriminated by effect as well as by design." *Id.* at 297. It then "resisted" "too facile an assimilation of Title VI law to Section 504." *Id.* at 293 n.7. And it ultimately concluded that "the regulations do not in fact support respondents' action." *Id.* at 294 n.10. In the end, neither *Cannon*, *Alexander* nor any other precedent supports the creation of an implied right of

action brought by individuals against States on the basis of an administrative regulation. No such action should be implied here.

CONCLUSION

The lower-court decision should be reversed.

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ADDENDUM

APPENDIX A

Sample of State English-Language Requirements

ALABAMA

Ala. Const. Amend. No. 509 (Establishing English as the official state language, prohibiting legislature from passing any law that diminishes English as the common language of citizens)

Ala. Code

§ 2-26-7 (Containers of seed to be labeled in English)

§ 5-18-16 (Loan contracts to be provided to consumers in English)

§ 6-8-60 (Official notices must be published in English)

§ 10-2B-1.20 (Articles of incorporation to be filed in English)

§ 12-16-60 (English proficiency requirement for jurors)

§ 25-9-362 (Mine safety rules and regulations to be printed in English)

§ 27-30-14 (Insurance policyholders to be provided contracts in English)

§§ 27-34-10, -19 (Articles of incorporation and minutes of fraternal benefit societies to be in English)

§ 28-4-119 (Liquor containers to be labeled in English)

§§ 34-29-72, -73 (English proficiency required for license to practice veterinary medicine; examinations administered in English only)

§ 35-12-38 (Notice of sales of property or securities by state treasurer must be published in English)

Ala. Admin. Code r.

364-X-8-.03 (English-only requirement for licensure of professional geologists)

610-X-4-.07 (English proficiency requirement for nursing license)

ALASKA

Alaska Stat.

§ 06.20.270 (Terms of loan must be provided to borrower in a statement written in English)

§ 08.29.130 (English proficiency requirement for licensed professional counselors educated in foreign countries)

§ 08.80.110 (English proficiency requirement for licensed pharmacists)

§ 08.84.032 (English-only requirement for examinations for foreign-trained physical and occupational therapists)

§ 09.20.010 (English proficiency requirement for jurors)

§ 21.84.070 (Fraternal benefit societies must file documents in English)

§ 44.12.310 (English is the official language of the State of Alaska)

§ 44-12.320 (English must be used by all government agencies in official functions and in compiling official public documents and records)

Alaska Admin. Code tit. 12

§ 52.140 (English proficiency requirement for license as pharmacy technician)

§ 54.040, § 54.110 (English proficiency requirement for applicant for a physical therapist or physical therapy assistant

license who received an education and degree outside the United States)

ARIZONA

Ariz. Rev. Stat.

Const. Art. 20 Par. 8 (English proficiency requirement for all State officers and members of the State Legislature)

Const. Art. 28 § 1 (Establishing English as the official state language)

Const. Art. 28 § 2 ("This State and all political subdivisions of this State shall take all reasonable steps to preserve, protect and enhance the role of the English language as the official language of the State of Arizona.")

Const. Art. 28 § 3 (Requiring English for all official actions of state, requiring that no state law, order, decree or policy may require the use of a language other than English, and providing that no governmental document "shall be valid, effective or enforceable unless it is in the English language")

§ 3-237 (Seed containers to be labeled in English)

§ 6-401 (Requiring publication of notices regarding banks and savings and loan associations to be made in newspapers printed in English)

§§ 10-120, 10-3120 (Documents filed pertaining to corporations must be in English or with English translation)

§ 11-402 (English proficiency requirement to hold county office)

§ 15-752 (Mandating classroom instruction in English, except classes of bilingual instruction or foreign language instruction)

§ 21-201 (English proficiency requirement for jury service)

§ 32-1232 (English proficiency requirement to obtain license to practice dentistry)

§ 32-1423 (English proficiency requirement to obtain license to practice medicine)

§ 32-1972 (Poisons must be labeled in English)

§ 32-2124 (English proficiency requirement for real estate professionals)

§ 36-796.02, 796.04 (Bedding must be labeled in English)

§ 38-201 (English proficiency requirement to hold a state, county, city, town or precinct office)

§ 44-1644 (Scrap metal dealers must keep records of transactions in English)

ARKANSAS

Ark. Code

§ 1-4-117 (Establishing English as the official language of the state)

§ 2-19-303 (Liming material to be labeled in English)

§§ 4-27-120, 4-32-1308, 4-33-120 (Documents filed pertaining to corporations must be in English)

§ 6-16-104 (English-only policy for instruction in all the schools of the state, public and private)

§ 7-4-109 (English proficiency requirement for members of the State Board of Election Commissioners, the members of each county board of election commissioners, and election officials)

§§ 11-7-403, -411 (English proficiency requirement for mine workers and mine inspectors; English-only requirement for examinations)

§ 16-10-107 (Legal process and proceedings must be in English)

§ 16-31-102 (English proficiency requirement for jury service)

§ 17-96-304 (English-only requirement for podiatry examinations)

§ 20-27-205 (Bedding must be labeled in English)

§§ 23-74-202, -301 (Fraternal benefit societies must keep minutes and file documents in English)

CALIFORNIA

Cal. Const. Art. 3, § 6 (Establishing English as the official state language)

Cal. Bus. & Prof. Code

§ 11 (Requiring notices, reports, statements, and records to be made in the English language)

§ 1630, 1636, 3053 (Examinations for licenses to practice dentistry and optometry shall be given in English)

§ 8023.5 (English proficiency requirement for shorthand reporters)

§ 8565 (English proficiency requirement for structural pest control operators)

§ 10153 (English proficiency requirement for applicants for real estate licenses)

§ 21505 (Secondhand watches must be so labeled in English)

§ 25613 (Draught beer must be labeled in English)

Cal. Civ. Proc. Code

§ 185 ("Every written proceeding in a court of justice in this state shall be in the English language")

§ 203 (English proficiency requirement for jury service)

Cal. Corp. Code

§ 8 (Requiring notices, reports, statements, and records to be in English)

Cal. Educ. Code

§ 70 (Requiring notices, reports, statements, and records to be in English)

§ 305 (English-only policy for classroom instruction)

§ 44252 (English proficiency requirement for issuance of "any credential, permit, certificate, or renewal of an emergency credential to any person to serve in the public schools")

§51801 (Home teachers must provide instruction in English)

§ 94975 (Administrative proceedings to be conducted in English)

Cal. Elec. Code

§ 7 (Requiring notices, reports, statements, and records to be in English)

§ 12303 (English proficiency requirement for members of precinct board)

Cal. Fin. Code

§ 8 (Requiring notices, reports, statements, and records to be in English)

§ 1936 (Requiring state banks to maintain records, financial records, and books of account in English)

§ 6002 (Notice of annual or special meetings to be given in English-language newspaper)

Cal. Fish & Game Code

§ 7 (Requiring notices, reports, statements, and records to be in English)

§ 7923 (Requiring holders of licenses to keep a "true record in the English language of all fish taken")

§ 8050 (Commercial fishermen and fish dealers must keep accounting records in English)

Cal. Food & Agric. Code

§ 11 (Requiring notices, reports, statements, and records to be in English)

§§ 29448, 52452, 52453 (Honey and seed containers to be labeled in English)

Cal. Gov't Code

§ 8 (Requiring notices, reports, statements, and records to be in English)

§§ 11435.20, 11513 (Requiring hearings to be conducted in English)

Cal. Harb. & Nav. Code

§ 8 (Requiring notices, reports, statements, and records to be in English)

§ 447.5 (Requiring communication of seagoing vessels in Vessel Traffic Service area with the marine exchange to be in English)

§ 721 (English proficiency requirement for yacht and ship brokers)

Cal. Health & Safety Code

§ 8 (Requiring notices, reports, statements, and records to be in English)

§108800 (Warnings to be printed in English)

Cal. Ins. Code

§ 8 (Requiring notices, reports, statements, and records to be in English)

§§ 11011, 11138 (Fraternal benefit societies must file documents and keep minutes in English)

Cal. Mil. & Vet. Code

§ 8 (Requiring notices, reports, statements, and records to be in English)

Cal. Penal Code

§ 893 (English proficiency required for jury service)

Cal. Prob. Code

§ 8002 (To initiate proceedings on a foreign-language will, it must submitted with an English translation)

Cal. Pub. Res. Code

§ 8 (Requiring notices, reports, statements, and records to be in English)

Cal. Pub. Util. Code

§ 8 (Requiring notices, reports, statements, and records to be in English)

Cal. Rev. & Tax. Code

§ 8 (Requiring notices, reports, statements, and records to be in English)

Cal. Sts. & High. Code

§ 8 (Requiring notices, reports, statements, and records to be in English)

Cal. Unemp. Ins. Code

§ 8 (Requiring notices, reports, statements, and records to be in English)

Cal. Veh. Code

§ 8 (Requiring notices, reports, statements, and records to be in English)

Cal. Water Code

§ 8 (Requiring notices, reports, statements, and records to be in English)

Cal. Welf. & Inst. Code

§ 8 (Requiring notices, reports, statements, and records to be in English)

COLORADO

Colo. Const. art.

2, § 30a (Establishing English as the official language of the state)

Colo. Rev. Stat.

§§ 7-64-1103, 7-90-301, 7-101-201, 7-121-201 (Requiring documents filed with secretary of state relating to partnerships, corporations and other business organizations to be in English)

§ 10-14-301 (Fraternal benefit societies must file certain documents in English)

§ 11-37.5-116 (Requiring foreign capital depository to keep its corporate records, financial records, and books of account in English)

§ 12-22-116 (English proficiency requirement for druggist licenses)

§§ 12-32-105, 12-36-115 (English-only requirement for podiatry license examinations)

§ 12-55-104 (English proficiency requirement for notaries public)

§ 13-1-120 (English requirement for court proceedings)

13-71-105 (English proficiency requirement for jury service)

§§ 17-1-101, 27-1-102 (Medical personnel employed by Department of Corrections and Department of Human Resources may be exempted from the "Colorado Medical Practice Act" if they meet certain requirements, including English proficiency)

§ 38-20-140 (Certain legal documents originating in foreign countries may only be executed if accompanied by an English translation)

CONNECTICUT

Conn. Gen. Stat.

§ 10-145f (English proficiency requirement for prospective teachers seeking admission to a teacher preparation program)

§§ 20-108, -126j (Examinations for licenses to practice dental medicine, dental surgery or dental hygiene to be given in English)

§ 20-146 (Examination for license to practice optometry to be given in English)

§ 21-47 (Any individual or business entity failing to keep business records in English is guilty of a Class A misdemeanor)

§ 21-48 (Lodging houses must keep records in English)

§ 21a-233 (Tags on bedding and upholstered furniture must be in English)

§ 22-56 (Seed containers must be labeled in English)

§ 31-131 (Employment agencies required to give information in English)

§ 38a-598, -616 (Fraternal benefit societies must keep minutes and file documents in English)

Conn. Agencies Regs.

§ 20-90-57 (English proficiency requirement for nursing license)

§ 20-576-4 (English proficiency requirement for pharmacist license)

§ 29-349-190 (English proficiency requirement for driver's license to transport explosives)

§ 29-349-281 (English proficiency requirement for driver's license to transport blasting agents)

DELAWARE

Del. Code tit.

3, §§ 1502, -1503 (Seed containers must be labeled in English)

6, § 1303 (Secondhand watches must be labeled in English)

10, § 4509 (English proficiency requirement for jury service)

18, §§ 6207, -6210 (Fraternal benefit societies must keep minutes and file documents in English)

24, § 1720 (English proficiency requirement to obtain license to practice medicine)

24, § 1721 (Requiring medical licensing examinations to be given in English)

Delaware Insurance Regulation No. 13 (English language requirement for insurance statements)

FLORIDA

Fla. Stat.

§ 102.012 (English proficiency requirement for members of election boards)

§ 117.01 (English proficiency requirement for notaries public)

§ 319.21 (Mobile homes and motor vehicles brought from other states must have a statement of origin, which must be written in English)

§ 464.008 (English proficiency requirement for applicants for licensure as a nurse)

§ 509.101 (Public lodging establishments and public food service establishments must print rules and regulations in English)

§ 513.117 (Recreational vehicle parks must print rules and regulations in English)

§ 516.15 (Borrowers must be given a statement of loan terms in English)

§§ 578.09, -578.091 (Seed containers must be labeled in English)

§§ 607.0120, 608.4081, 617.01201, 620.8105 (Business documents required to be in English)

Fla. Admin. Code Ann.

30B-13.002 (English proficiency requirement for employment as bus driver)

38I-40.015 (Requiring warning labels and warning signs related to asbestos hazards to be in English)

64B9-3.002 (English proficiency requirement for nursing license)

64B16-26.205 (Applicant for pharmacist licensure examination must show proficiency in English)

GEORGIA

Ga. Code

§ 2-11-22 (Seed containers must be labeled in English)

§ 7-1-392 (Articles of incorporation for banks and trust companies must be in English)

§ 7-1-719 (International banking companies must submit reports in English)

§ 7-3-18 (Borrowers must be given a statement of loan terms in English)

§ 10-1-122 (Paint labels must be in English)

§§ 14-2-120, 14-3-120 (Business documents required to be in English)

§ 15-12-163 (English proficiency requirement for jury service)

§§ 21-2-92, 21-2-214 (English proficiency requirement for registrars, deputy registrars and poll officers)

§ 26-2-268 (Egg cartons must be labeled in English)

§ 26-4-41 (English proficiency requirement for graduates of foreign schools of pharmacy)

§ 40-2-27 (Motor vehicle title documentation and application must be in English)

§ 40-5-147 (English-only requirement for examination for commercial drivers' license)

§ 43-11-40 (English-only requirement for examination for license to practice dentistry)

§ 50-3-100 (Establishing English as the official state language)

Ga. Comp. R. & Regs.

100-2-.01 (Requirement that all chiropractic examinations be conducted in English)

360-7-.01 (English proficiency requirement for provisional medical license)

410-6-.02 (English proficiency requirement for nursing license)

480-3-.01, 480-4-.02 (English proficiency requirement for pharmacist license)

490-2-.02 (English proficiency requirement for physical therapist assistant license)

HAWAII

Haw. Rev. Stat.

Organic Act Chapter II, § 44 (Requiring legislative proceedings to be conducted in English)

Organic Act Chapter IV, § 83 (English proficiency requirement for jury service)

§ 11-72 (English proficiency requirement for election precinct officials)

§ 149A-15 (Pesticides must be labeled in English)

§§ 150-24, -25 (Seed containers must be labeled in English)

§ 237-41 (Taxpayer records must be maintained in English)

§ 281-78 (Draught beer must be labeled in English)

§ 332-3 (Bedding must be labeled in English)

§ 460J-13 (English proficiency requirement for pest control operators)

IDAHO

Idaho Code

§ 2-209 (English proficiency requirement for jury service)

§ 22-415 (Seed containers must be labeled in English)

§ 26-1712 (International banking companies must submit to the State reports made under oath and written in English)

§§ 30-1-120, 30-3-2 (Business documents required to be in English)

§§ 41-3207, -3210 (Fraternal benefit societies must keep minutes and file documents in English)

§ 44-1302 (English proficiency requirement for minor under sixteen years of age to be employed during school hours)

§ 51-104 (English proficiency requirement for notaries public)

§ 73-121 (English requirement for documents to be filed in any state, county, city or district office or endorsed by officials to be in English)

Idaho Admin. Code

§ 02.02.14.200, .210 (Requirement that all information required to appear on consumer and non-consumer packaging shall appear in English)

§ 22.01.01.052 (English proficiency required for license to practice medicine)

ILLINOIS

Ill. Comp. Stat. Chap.

10, §§ 5/13-4, 5/14-1 (English proficiency requirement for judges of election)

20, § 1015/3 (Requiring public employment office sign to be in English)

35, § 120/7 (Retailers must keep records in English)

35, § 130/11 (Cigarette distributors must keep records in English)

35, §§ 620/7, 625/7 (Taxpayers must keep records in English)

50, § 330/3 (Municipal public hearing to be noticed in English)

110, § 520/8c (English proficiency requirement for teachers)

225, § 710/26 (Explosives to be labeled in English)

815, § 410/2 (Secondhand watches must be so labeled in English)

Ill. Admin. Code tit.

2, § 553.30 (English proficiency requirement for hearing officer)

68, §§ 1150.30, 1150.60 (English proficiency requirement for licensure as an architect)

68, § 1200.30 (English proficiency examination required for certification as a certified shorthand reporter)

68, § 1270.5 (English proficiency requirement for license as professional land surveyor-in-training)

68, §§ 1270.10, 1270.30 (English proficiency requirement for license as professional land surveyor)

68, § 1285.60 (English-only requirement for examinations for licenses to practice any branch of medicine or chiropractics)

68, §§ 1300.20, 1300.30 (English proficiency requirement for nursing license)

68, § 1330.30 (English proficiency requirement for pharmacist license)

68, § 1340.30 (English proficiency requirement for license as a physical therapist)

68, §§ 1380.250, 1380.280 (English proficiency requirement for license as a professional engineer)

68, § 1400.40 (English proficiency requirement for license as a clinical psychologist)

68, § 1480.135 (English proficiency requirement for license as a structural engineer intern)

INDIANA

Ind. Code

§ 1-2-10-1 (Adopting English as the official language of Indiana)

§ 3-6-6-7 (English proficiency requirement for precinct election officers)

§ 3-11-10-36 (English proficiency requirement for members of absentee voter boards)

§ 4-1-5-1 (Notice of sale of bonds by state universities and colleges must be published in an English-language newspaper)

§ 8-1-2-84 (Notices of consolidation or merger, or acquisition, lease, sale or encumbrance of property by utilities required to be published in a newspaper printed in English)

§ 9-24-2-3 (Prohibits Driver's License Bureau from issuing a license or permit to anyone "who is unable to understand highway warnings or direction signs written in the English language")

§ 25-23-1-11 (English proficiency requirement for persons seeking license as registered nurses)

§ 25-23-1-12 (English proficiency requirement for persons seeking license as practical nurses)

Ind. Admin. Code

327, r. 8-12-3 (English proficiency requirement to operate a wastewater or water treatment plant)

410, r. 7-5-1 (Requiring food products to be labeled in English)

631, r. 1-1-14 (Requiring filing of power of attorney to be written in English)

675, r. 12-6-7 (Requiring plans and specifications filed with the Building Safety and Fire Prevention Commission to be in English)

710, r. 1-9-2 (English language requirement for applications filed with the Securities Division)

856, r. 1-3.1-1 (English-only requirement for pharmacist licensure examination)

IOWA

Iowa Code

§ 189.9 (Requires that certain products be labeled in English language)

§ 199.6 (Requires containers of any inoculant for leguminous plants to bear a label containing certain information in the English language)

§ 341A.10 (English proficiency requirement for employment as a deputy county sheriff in any position under civil service)

§ 486A.1201 (Partnership documents filed with the office of the secretary of state must be written in English)

§ 487.108 (Documents of limited partnerships filed with the office of the secretary of state must be written in English)

§ 490.120 (Documents of business corporations filed with the office of the secretary of state must be written in English)

§ 490A.120 (Documents of limited liability companies filed with the office of the secretary of state must be written in English)

§ 499.40 (Articles of incorporation of cooperative associations must give information in English)

§ 512B.8 (English language requirement for minutes of meetings of fraternal benefit societies)

§ 512B.11 (English language requirement for fraternal benefit society documents that are required to be filed with the commissioner of insurance)

§ 556.12 (English language requirement for publication of legal notices regarding abandoned property)

§ 556.17 (English language requirement for publication of legal notices regarding disposition of unclaimed property)

§ 607A.4 (Minimum qualifications for service as juror include proficiency in English)

§ 618.1 (English language requirement for publication of notices of legal proceedings)

Iowa Admin. Code

§ 201-50.10(356,356A) (English proficiency requirement for jail personnel)

§ 201-51.8(356,356A) (English proficiency requirement for personnel of temporary holding facilities)

§§ 645-200.3(147), 645-200.4(147) (English proficiency required for license as a physical therapist)

§ 653-11.2(147,148,150,150A) (English proficiency required for license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy)

§ 653-14.4(147,148E) (English proficiency required for license as an acupuncturist)

§ 657-2.12(155A) (English proficiency required for license as a pharmacist, for graduates of schools located outside the United States)

§ 761-607.27(321) (English-only requirement for commercial driver's license endorsement for transportation of hazardous materials)

KANSAS

Kan. Stat.

§ 2-1002 (English language requirement for labeling of "commercial feeding stuffs")

§ 2-1204 (English language requirement for labeling of commercial fertilizer)

§ 2-1417 (English language requirement for labeling of seeds)

§ 17-5211 (English requirement for publication of notice of meetings of savings and loan associations)

§ 40-744 (English language requirement for minutes of meetings of fraternal benefit societies)

§ 47-503 (English requirement for labeling of certain livestock products)

§ 53-118 (Lack of English proficiency grounds for denial of appointment as notary public)

Kan. Admin. Regs.

§ 60-3-106 (English proficiency requirement for licensure by State Board of Nursing for graduates of foreign nursing schools where instruction was not given in English)

§ 69-15-7 (English-only requirement for examination for license of permanent color technicians, tattoo artists, and body piercing technicians)

§ 100-6-5 (English proficiency requirement for applicants for license from Kansas State Board of Healing Arts)

§ 100-7-1 (English-only requirement for examinations given by Kansas State Board of Healing Arts)

KENTUCKY

Ky. Rev. Stat.

§ 2.013 (Designating English as the official language of the State of Kentucky)

§ 29A.080 (Lack of English proficiency is grounds for disqualification from jury service)

§ 38.090 (English proficiency required for service in the Kentucky National Guard)

§ 90.330 (English proficiency required for civil service employment)

§§ 95.440, 95.762 (English proficiency examination required for police and fire department employees)

§ 164.297 (English proficiency requirement for instructors in state colleges and universities)

§ 186.440 (Driver's license not to be issued to persons "unable to understand highway warnings or direction signs in the English language")

§ 186A.097 (English-only requirement for documents provided for registration of motor vehicles)

§ 250.041 (Seeds must be labeled in English)

§§ 271B.1-200, 273.252, 275.045 (Corporate documents to be filed with secretary of state must be in English)

§ 304.14-435 (English-only requirement for all insurance policies and other documents required to be filed with the department of insurance)

§ 311.571 (English language proficiency required to obtain license to practice medicine)

§§ 314.041, 314.042, 314.051 (English language proficiency required to obtain nursing licenses)

§ 327.060 (English language proficiency required to obtain license as a physical therapist)

§ 351.110 (Applicants for certification as a mine inspector, mine safety analyst, electrical inspector, mine safety instructor, mine foreman, or assistant mine foreman may be denied permission to take examination if they lack proficiency in English)

Ky. State Admin. Proc., Part II

§ 8 (English proficiency required for jury service)

LOUISIANA

La. Rev. Stat.

§ 1:52 (Legal notices are sufficient if published only in English)

§ 3:202 (English language requirement for articles of incorporation of agricultural credit corporations)

§ 3:1436 (Requirement that seeds be labeled in English)

§ 6:705 (English language requirement for articles of incorporation of savings and loan associations)

§ 12:24 (English language requirement for articles of incorporation of business corporations)

§ 13:2582 (English proficiency requirement for justices of the peace)

§ 13:2583 (English proficiency requirement for constables)

§ 22:2003 (English language requirement for health maintenance organizations)

§ 35:391 (English language requirement for ex-officio notaries)

§ 37:920 (English proficiency required to obtain license as registered nurse)

§ 37:1025 (English proficiency required for participation in drug-administration course)

§ 37:1877 (Records of purchases of cemetery artifacts by antique dealers must be kept in English)

§ 40:852 (Self-rising flour must have label in English)

§ 40:1057.1 (Hazardous aerosols must have English labels)

§ 43:19 (Acts of the legislature required to be published in English)

§ 47:2181 (English-only requirement for publication of notices of tax sales)

§ 51:761 (Certain information must be stamped on boots and shoes by manufacturers in English)

§ 56:309.4 (Soft-shell crab shedders required to maintain records in English)

§ 56:637 (Wholesale/retail dealers must keep records in English of all reptiles and amphibians bought and sold)

MAINE

Me. Rev. Stat.

Title 1 § 601 (Legal notices must be published in a newspaper printed in English)

Title 7 § 507 (Hazardous substances must be labeled in English)

Title 7 § 1043 (Seeds must be labeled in English)

Title 14 § 1211 (English proficiency is prerequisite for qualification for jury service)

Title 24A § 4104 (Documents of fraternal benefit societies that are required to be filed must be in English)

Title 24A § 4135 (Minutes of domestic societies must be in English)

Title 32 § 2205-A (English proficiency required for license to practice professional nursing as a registered professional nurse)

Title 32 § 2284 (English proficiency required for foreign-trained applicants for occupational therapist license)

MARYLAND

Md. Ann. Code

Agriculture, § 9-104 (Requires labeling of "every lot of severed turf grass sod, plugs, and sprigs" in English)

Agriculture, § 9-206 (Requires labeling of treated seeds in English)

Agriculture, § 9-207 (Requires labeling of agricultural seeds in English)

Agriculture, § 9-208 (Requires labeling of vegetable and herb seeds in English)

Agriculture, § 9-209 (Requires labeling of flower, tree and shrub seeds in English)

Commercial Law, § 12-308 (Consumer loan disclosures must be in English)

Courts and Judicial Proceedings, § 8-207 (Lack of sufficient knowledge of English is grounds for disqualification from jury service)

Health Occupations, § 1A-302 (English proficiency required for license as acupuncturist)

Health Occupations, § 8-302 (English proficiency required for license as a registered nurse or licensed practical nurse)

Health Occupations, § 12-302 (English proficiency required for license as a pharmacist)

Health Occupations, § 13-302 (English proficiency required for license as a physical therapist)

Health Occupations, § 14-307 (English proficiency required for license as a physician)

Health Occupations, § 14-506 (English proficiency required for license as an acupuncturist)

Health Occupations, § 15-303 (English proficiency required to be a certified physician's assistant)

Health Occupations, § 16-302 (English proficiency required for license as a podiatrist)

Transportation, § 16-103.1 (Ability to understand highway warning or direction signs written in the English language required to obtain driver's license)

MASSACHUSETTS

Mass. Gen. Laws ch.

94B § 1 (Labeling in English required for certain hazardous substances)

112 § 75 (Examination for nursing license required to be given in English)

112 § 152 (English proficiency required for licensure as acupuncturist)

128 § 85 (Seeds required to be labeled in English)

140 § 62 (Requirement that records on second hand motor vehicles be kept in English)

140 § 79 (Requirement that pawnbrokers keep records in English)

148 § 13 (Notice of public hearing prior to granting license to store explosives required to be given in newspaper published in English)

176 § 4 (Documents of fraternal benefit societies required to be filed in English)

Mass. Admin. Code

237 CMR 4.04 (All examinations administered by the State Examiners of Electricians required to be given in English)

243 CMR 5.02 (English proficiency required for license to practice acupuncture)

244 CMR 8.03 (English proficiency required to be licensed as a professional nurse)

244 CMR 8.04 (English proficiency required to be licensed as a practical nurse)

247 CMR 3.01 (English proficiency required to be licensed as a pharmacist)

255 CMR 4.04 (Registered sanitarian must pass a licensing examination that "shall be administered in the English language")

259 CMR 2.02 (English proficiency required of applicants seeking license from Allied Board of Health Professionals)

527 CMR 13.06 ("Vehicles transporting explosive materials shall only be driven by and be under the control of a properly licensed driver who is physically fit, careful, capable, reliable, able to read and write the English language. . . .")

527 CMR 13.07 ("Motor vehicles transporting blasting agents shall be driven by a properly licensed driver not less than 21 years of age. The driver shall be physically fit, careful, capable, reliable, and able to read and write the English language.")

540 CMR 2.15 (English proficiency required to obtain license to operate a school bus)

995 CMR 2.06 (Applicants for Pilot Candidate Training required to demonstrate fluency in English)

995 CMR 2.07 (Applicants for a Commission of Warrant Pilot required to demonstrate fluency in English)

MICHIGAN

Mich. Comp. Laws

§ 42.7 (Township boards required to keep records in English)

§ 119.3 (Districts required to keep legislative journals in English)

§ 123.961j (Sales of bonds by local building authorities required to be published in English)

§ 257.303 (Secretary of state prohibited from issuing driver's license or chauffeur's license to persons unable to understand highway warning or direction signs in the English language)

§ 257.1352 (Automobile dealers required to maintain records of buying or receiving used motor vehicle parts in English)

§ 324.76703 (Notice of sale of certain bonds required to be given in newspaper published in the English language)

§ 333.16174 (English proficiency required for certain persons licensed or registered by public health agency)

§ 339.2505 (English proficiency required to obtain license as real estate agent or broker)

§ 445.484 (Dealers of precious metals and gems required to maintain certain records in English)

§ 446.205 (Pawnbrokers, auctioneers and vendors required to maintain certain records in English)

§§ 450.1132, 450.2132 (Corporate documents must be presented in English for filing)

§ 491.208 (Documents of savings and loan associations must be presented in English for filing)

§ 729.204 (English proficiency required for jury service)

MINNESOTA

Minn. Stat.

§§ 21.82, 21.83 (Seeds required to be labeled in English)

§ 65A.01 (Disclosures in fire insurance policies must be made in English)

§ 147.037 (English proficiency required for license to practice medicine)

§ 148.71 (English proficiency required for license as a physical therapist)

§ 153A.19 (Dispensers of hearing aids required to furnish customers with contracts in English)

§§ 302A.115, 317A.115, 322B.12 (Requires articles of incorporation of business organizations to be written in English)

§ 325E.21 (Wire and cable dealers required to keep records in English)

§ 325F.31 (Bedding required to be labeled in English)

§ 331A.02 (Newspapers must be printed in the English language in order to publish official notices)

§ 331A.05 (Public notices must be disseminated in English)

Minn. Gen. R. Prac., Rule 808 (English proficiency required for jury service)

MISSISSIPPI

Miss. Code Ann.

§ 3-3-31 (Establishes English as the state language)

§ 27-5-159 (Tax records, books and accounts to be kept in English)

§ 27-19-103 (Tax books and records of common and contract carrier of property or passengers to be maintained in English)

§ 27-65-43 (Sales tax records to be kept in English)

§ 67-1-57 (English proficiency requirement for permit to sell alcoholic beverages at retail)

§ 73-9-23 (English proficiency requirement for license to practice dentistry or dental hygiene)

§ 73-15-19 (English proficiency requirement for license as a registered nurse)

§ 73-15-21 (English proficiency requirement for license as a practical nurse)

§ 73-21-85 (English proficiency requirement for license as a pharmacist)

§ 73-23-51 (English proficiency requirement for license as a physical therapist)

§ 73-23-53 (English proficiency requirement for temporary license as a physical therapist)

MISSOURI

Mo. Rev. Stat.

§ 1.028 (Recognizing English as the common language used in Missouri)

§ 80.200 (Requires notice by publication in English)

§ 84.120 (English proficiency required for employment as policeman, turnkey, or officer of police)

§ 84.570 (English proficiency required for appointment as a policeman or an officer of police)

§ 115.085 (English proficiency required for appointment as an election judge)

§ 266.051 (Seeds required to be labeled in English)

§ 266.321 (Fertilizer required to be labeled in English)

§ 311.620 (English proficiency required for appointment as agent, assistant, deputy or inspector under the provisions of the liquor control law)

§ 330.040 (English-only requirement for podiatrist examination)

§ 335.046 (English proficiency requirement for license as registered nurse)

§ 340.228 (English-only requirement for license examination to practice veterinary medicine)

§ 351.046 (Corporate documents required to be filed with secretary of state in English)

§ 476.050 (All writs, process, proceedings and records in any court are required to be maintained in the English language)

§ 486.220 (English proficiency requirement for notaries public)

§ 494.425 (English proficiency required for jury service)

Mo. Code of Regs.

4 § 150-3.010 (English proficiency requirement for professional physical therapists)

17 §§ 10-2.050, 20-2.035, 20-4.035 (Applicant for license as private security guard or watchman must demonstrate English proficiency)

19 § 30-40.342 (Applicant for license as emergency medical technician must demonstrate English proficiency)

MONTANA

Mont. Code

§ 1-1-510 (Establishing English as the "official and primary language of the state and local governments" and establishing English-only policy by prohibiting use of any foreign language by "government officers and employees acting in the course and scope of their employment or for government documents and records")

§ 3-1-314 (Establishing English-only policy for courts, providing "Every written proceeding in a court of justice in this state must be in the English language, and judicial proceedings must be conducted, preserved, and published in no other.")

§ 32-5-303 (Requiring loan disclosures to be provided to consumers in English)

§§ 35-1-217, 35-2-119, 35-10-111 (Requiring corporate documents filed with the secretary of state to be in English)

§§ 37-3-305, 37-3-305 (English proficiency requirement for license to practice medicine)

§ 37-3-311 (English-only requirement for examination for license to practice medicine)

§ 37-3-315 (English proficiency requirement for restricted license to practice medicine)

§ 37-4-301 (English-only requirement for examination for license to practice dentistry)

§ 37-10-302 (English-only requirement for examination for license to practice optometry)

§ 50-30-202 (Requires labeling of hazardous substances in English)

§ 70-30-207 (English proficiency requirement for appointment of condemnation commissioners)

NEBRASKA

Neb. Rev. Stat.

CONST Art. I, § 27 (Declares English to be the official state language; requires all official proceedings, records and publications to be in English; and requires all classroom instruction to be in English)

§ 4-107 (Requires publication of notice of sale of decedent's property in an English language newspaper)

§ 14-566 (Requires publication in a daily newspaper, published in the English language, of all public advertisements, notices, ordinances, resolutions, council proceedings, and all other matter published by the city)

§ 19-1831 (English proficiency requirement for civil servants)

§ 19-3011 (English proficiency requirement for appointees to municipal offices)

§ ~~21-1903 (Documents~~ filed with the Secretary of State under the Nebraska Nonprofit Corporation Act "must be in the English language")

§ 21-2003. (Documents filed with the Secretary of State under the Business Corporation Act "shall be in the English language")

§ 25-1601 (Requires English proficiency for jury service)

§ 32-221 (Requires English proficiency for persons appointed as election officials)

§ 32-231 (Requires English proficiency for persons appointed as judges and clerks of election)

§ 39-2001 (Requires publication of notice of designation of county roads in an English language newspaper)

§ 44-1078 (Requires that the minutes of proceedings of the supreme governing body and of the board of directors of domestic societies be in the English language)

§ 44-1081 (Requires that documents of domestic societies required to be filed with the Director of Insurance be in the English language)

§ 45-145 (Lenders must provide disclosures under the federal Consumer Credit Protection Act in English)

§ 48-304 (Certificate under Child Labor Act must verify that "the child can read and legibly write simple sentences in the English language")

§ 69-1311, 1316 (State Treasurer must publish notice of disposition of unclaimed property "in an English language legal newspaper")

§ 71-387 (Requires English proficiency for cosmetologist license)

§ 71-2803 (Requires English proficiency for physical therapy license)

§ 71-6039 (Nursing assistants must be "able to speak and understand the English language or a language understood by a substantial portion of the nursing home residents")

§ 71-6603 (Home health aides must be "able to speak and understand the English language or the language of the home health agency patient and the home health agency staff member who acts as the home health aide's supervisor")

§ 76-2229.01-2230 (Requires English proficiency for licensed real estate appraisers)

§ 77-1804, 2804 (Notice of property to be sold at tax sales are required to be published in the English language)

§ 79-808 (Requires English proficiency for teachers)

§ 81-2.147.02 (Requires seeds to be labeled in English)

NEVADA

Nev. Rev. Stat.

§ 1.040 ("Every written proceeding in a court of justice in this state, or before a judicial officer, shall be in the English language")

§ 6.010 (English proficiency requirement for jury service)

§ 78.028 (Corporate documents to be filed with the secretary of state must be written in English or accompanied by a verified translation)

§ 78A.015 (Documents of closed corporations filed with the secretary of state must be written in English or accompanied by a verified translation)

§ 80.040 (Documents of foreign corporations filed with the secretary of state must be written in English or accompanied by a verified translation)

§ 81.003 (Miscellaneous documents filed with the secretary of state must be written in English or accompanied by a verified translation)

§ 82.528 (Documents of nonprofit corporations filed with the secretary of state must be written in English or accompanied by a verified translation)

§ 84.100 (Documents of sole corporations filed with the secretary of state must be written in English or accompanied by a verified translation)

§ 86.566 (Documents of limited liability companies filed with the secretary of state must be written in English or accompanied by a verified translation)

§ 88.338 (Documents of limited partnerships filed with the secretary of state must be written in English or accompanied by a verified translation)

§ 89.027 (Documents of professional corporations and associations filed with the secretary of state must be written in English or accompanied by a verified translation)

§ 433.269 (English proficiency required for employment as psychiatrist, psychologist, social worker or registered nurse by the administrator of the Division of Mental Health and Developmental Services)

§ 454.080 (Poisons required to be labeled in English)

§ 587.091 (Seeds required to be labeled in English)

§ 600.025 (Trademark and trade name documents filed with the secretary of state must be written in English or accompanied by a verified translation)

§ 632.160 (Examinations of foreign-trained applicants for nursing license must test for English proficiency)

§ 632.280 (Examinations of foreign-trained applicants for practical nursing license must test for English proficiency)

§ 635.060 (English-only requirement for examination for podiatrist license)

§ 636.180 (English-only requirement for examination for optometrist license)

§ 646.020 (Pawnbroker records of transactions "must be legibly written in the English language")

§ 647.110 (Records of secondhand sellers "must be legibly written in the English language")

§ 656.160 (Certified court reporters must pass a written examination "to determine whether the applicant has [a] good understanding of the English language ")

§ 695A.060 (Documents filed with the insurance commissioner "must be in the English language")

§ 695A.120 (Minutes of meetings of fraternal benefit societies must be written in the English language)

§ 706.8841 (English proficiency requirement for license to drive taxicab)

Supreme Court Rules, Rule 51.5 (To be certified to take the bar examination, graduates of unaccredited law schools must have practiced law for ten years in a country "where English is the language of instruction and practice in the courts of that jurisdiction")

NEW HAMPSHIRE

N.H. Rev. Stat.

§ 3-C:1-2 (English is official state language - "designated as the language of all official public documents and records, and of all public proceedings and nonpublic sessions," with certain enumerated exceptions)

§ 82-A:11 (All books, records, papers and other tax documents required to be kept in English)

§ 189:19 (Requires instruction in schools to be in English, with the exception of approved bilingual education programs)

§ 261:4 (Certificates of title for motor vehicles must be in English)

§ 261:131 (Automotive recycling dealers required to keep a record book in English)

§ 293-A:1.20 (Documents filed under the Business Corporation Act are required to be in English)

§ 304-C:2 (Documents of limited liability companies are required to be in English)

§ 318:18 (English proficiency requirement for obtaining license as a pharmacist)

§ 328-A:12 (English proficiency requirement for physical therapists educated outside the United States)

§ 329:10 (English-only requirement for examinations for license of physicians and surgeons)

§ 339-A:3 (Hazardous substances must be labeled in English)

§ 398:12 (Records of pawnbrokers must be maintained in English)

§ 433:2 (Label for agricultural, vegetable and flower seeds must be in English)

§ 433:3 (Label for tree and shrub seeds must be in English)

§ 500-A:7 (English proficiency requirement for jury service)

§ 509:1 (Requires English to be used in court documents)

§ 550:10 (Requires legal notices to be published in English)

NEW JERSEY

N.J. Stat.

§ 2B:20-1 (English proficiency requirement for jury service)

§ 4:8-17.14 (Containers of seed treated with a substance harmful to man or animals must be labeled in English)

§ 4:8-17.15 (Containers of seeds must be labeled in English)

§ 14A:1-6 (Corporate documents filed with secretary of state must be in English)

§ 15A:1-7 (Nonprofit corporate documents filed with secretary of state must be in English)

§ 17:11C-34 (Disclosure statements provided by consumer lenders must be in English)

§ 17:44B-7 (Minutes of meetings of fraternal benefit societies must be in English)

§ 17:44B-10 (Filed documents of domestic societies must be in English)

§ 18A:64-53 and 18A:64A-25.2 (English language requirement for "legal newspapers")

§ 19:6-2 (English fluency requirement for service as a member of a district board of any municipality)

§ 21:1A-134 (English fluency requirement for applicants for permit "to manufacture, store, sell, transport or use explosives")

§ 26:10-4.9 (Labels on bedding must be in English)

§ 30:4-3.11 (English fluency requirement for correctional officers)

§ 30:4-14 (English fluency requirement for human services police officers)

§ 30:8-18.1 (English fluency requirement for county correctional officers)

§ 35:1-2 (English language requirement for publication of official advertisements)

§ 40:11A-22.2 and 40A:9-154.9 (English fluency requirement for parking enforcement officers)

§ 40:52-12 (Applicants for licenses required to publish notice in a newspaper printed in the English language)

§ 40A:14-9 (English fluency requirement for fire department employees)

§ 45:5-7 (English-only requirement for podiatry examination)

§ 45:8-35 (English proficiency requirement for license as professional engineers and land surveyors)

§ 45:9-15 (English-only requirement for examinations for licenses for practice of medicine and surgery)

§ 45:9-42.7 (English-only requirement for examinations for licenses for bio-analytical laboratory director)

NEW MEXICO

N.M. Stat.

§ 14-11-10 (Legal notices required to be published in English)

§ 14-12-2 (English proficiency requirement for notaries public)

§ 21-8-3 (Course of instruction of New Mexico State University "shall embrace the English language")

§ 49-6-13 (Requires publication in an English language newspaper of certain proposed improvements to public buildings)

§ 59A-5-29 (English language translation must accompany foreign-language insurance filings)

§ 59A-44-7 (English-only requirement for minutes of meetings of domestic societies)

§ 59A-44-10 (English-only requirement for all documents filed by domestic societies)

§ 61-18A-10 (English-only requirement for examinations for collection manager's license)

§ 72-18-3 (Defines "publication" for purposes of the Flood Control District Act to mean "publication . . . in the English language")

§ 72-19-4 (Defines "publication" for purposes of the Southern Sandoval County Arroyo Flood Control Act to mean "publication . . . in the English language")

§ 74-10-4 (Defines "publication" for purposes of the Solid Waste Authority Act to mean "publication . . . in the English language")

§ 76-10-13 (Requires that seeds be labeled in English)

Uniform Jury Instruction (UJI) 4-110 (Qualification questionnaire requires that potential jurors disclose whether they read, write, speak and understand the English language)

NEW YORK

N.Y. Abandoned Property Laws § 402 (Requires publication in a newspaper printed in the English language)

N.Y. Agri. & Mkts. § 137 (Requires that seeds be labeled in English)

N.Y. Agri. & Mkts. § 52 (Requires labeling of adulterated spirits of turpentine in English)

N.Y. Agri. & Mkts. § 250-e (Requires that certain certificates be provided in English)

N.Y. Bank § 352 (Requires that Truth in Lending disclosures be given in English)

N.Y. Bank § 9003 (Requires that corporate certificates and other filed documents be in English)

N.Y.C.P.L.R. Rule 2101 (Requires that papers served and filed be in English)

N.Y. Dom. Rel. § 221 (Requires publication of divorce proceedings in a newspaper in the English language)

N.Y. Elec. § 3-400 (English proficiency requirement for election inspectors and poll clerks)

N.Y. Elec. § 3-401 (English proficiency requirement for election coordinators)

N.Y. Gen. Bus. § 69-o (English-only requirement for security or fire alarm installers)

N.Y. Gen. Bus. § 179 (Licensed persons required to keep registers of employment in the English language)

N.Y. Real Prop. § 441 (English proficiency requirement for real estate brokers and salesmen)

NORTH CAROLINA

N.C. Gen. Stat.

§ 9-3 (English proficiency requirement for prospective jurors)

§ 53-232.12 (Licensed international banking corporations must make written reports in English)

§ 55-1-20 (Documents filed with the Secretary of State pursuant to the Business Corporation Act must be in English)

§ 55A-1-20 (Documents filed with the secretary of state pursuant to the Nonprofit Corporation Act must be in English)

§ 57C-1-20 (Documents filed with the secretary of state pursuant to the Limited Liability Company Act must be in English)

§ 58-24-30 (English language requirement for minutes of meetings of fraternal benefit societies)

§ 58-24-45 (Documents to be filed by fraternal benefit societies must be in English)

§ 59-73.7 (English language requirement for documents filed under Uniform Partnership Act)

§ 90-187 (Applicants for license to practice veterinary medicine who are graduates of foreign schools must demonstrate English proficiency)

§ 90-202.6 (English-only requirement for license examinations for podiatrists)

§ 90-270.30 (English proficiency requirement for licensure of foreign-trained physical therapists)

§ 91A-7 (Records of transactions with pawnbrokers must be made in English)

§ 106-277.3 (Seeds must be labeled in English)

§ 145-12 (Establishes English as the official language of North Carolina)

NORTH DAKOTA

N.D. Cent. Code

§§ 4-09-10, -11, -11.1, -11.2 (Containers of seed to be labeled in English)

§ 15-10-13.1 (English proficiency requirement for professors, instructors, teachers, assistants, and graduate assistants at state institutions of higher education)

§ 19-21-01 (Hazardous substances must be labeled in English)

§§ 26.1-15.1-07, -10 (Fraternal benefit societies must keep minutes and file documents in English)

§§ 27-09.1-08, 28-14-06, 29-17-34 (English proficiency requirement for jurors)

§ 43-17-18 (English proficiency requirement for physicians and surgeons)

§ 54-02-13 (Establishing English as official state language)

OHIO

Ohio Rev. Code

§ 907.29 (Requires seeds to be labeled in English)

§ 3345.281 (Teaching assistants must be proficient in English)

§ 2945.25 (English proficiency requirement for jurors)

§ 317.113 (Records and Indexes must be in English)

§ 3501.27 (English proficiency requirement for election officials)

§ 4731.142 (English proficiency requirement for physicians)

§ 3719.08 (Controlled substances must be labeled in English)

§ 317.113 (Records and indexes must be translated into English)

§ 3505.12 (Ballot instructions must be in English)

§ 1561.17 (English proficiency requirement for mine foreman)

§ 4729.08 (English proficiency requirement for licensed pharmacists)

OKLAHOMA

Okla. Stat. tit.

12 § 572 (English proficiency requirement for jury service)

15 § 612 (Second-hand watches must be labeled in English)

16 § 28 (English language requirement for recorded real estate documents)

19 § 444 (Reports of official proceedings of board of county commissioners must be published in an English-language newspaper)

59 § 144 (Podiatrist examination must be in English)

59 § 493.2 (English proficiency requirement for medical license)

59 § 698.8 (English proficiency requirement for veterinarian license)

59 § 887.6 (Physical therapist examination must be in English)

70 § 3224 (English proficiency requirement for teachers)

OREGON

Or. Rev. Stat.

§ 246.310 (English proficiency requirement for election board clerks)

§ 680.060 (Dental hygienist exam must be in English)

§ 111.255 (Probate documents must be in English or translated into English)

§ 241.225 (English proficiency requirement for county civil service employment)

§ 52.689.255 (English proficiency requirement for pharmacists)

§ 194.022 (English proficiency requirement for notary public)

§ 36.453.035 (Hazardous substances must be labeled in English)

§ 52.687.051 (Massage therapist examination must be given in English)

§ 1.150 (Court proceedings and documents must be in English)

Or. Admin. R.

334-010-0010 (English-only requirement for licensed massage therapist examination)

337-010-0030 (English-only requirement for examinations for Limited Permits in Diagnostic Radiologic Technology)

581-053-0006 (English proficiency requirement for school bus driver's license)

818-021-0010 (English proficiency requirement for license to practice dentistry)

818-021-0020 (English proficiency requirement for licensed dental hygienist)

848-010-0015 (English-only requirement for licensed physical therapist examination; English proficiency required for license)

851-031-0006 (English proficiency required for nursing license)

PENNSYLVANIA

Pa. Cons. Stat. Ann. tit.

42 § 25-4502 (English proficiency requirement for jurors)

24 § 6803 (Higher education teachers are evaluated for fluency in English)

40 § 1142.202 (Articles of incorporation and minutes of fraternal benefit societies to be in English)

52 § 70.215 (Miner examinations must be given in English)

3 § 285-3 (Seed packages must be labeled in English)

7 § 1004 (Banking articles of incorporation must be in English)

15 § 1306 (Business articles of incorporation must be in English)

35 § 978 (Mattresses, bedding and upholstery must be tagged in English)

43 § 476 (Posting of notices in lead manufacturing establishments must be in English)

52 § 701-206 (English proficiency requirement for certified mine foremen and mine electricians)

53 § 4432 (Junk shops and secondhand stores must keep their books in English)

53 § 12234 (English proficiency requirement for employment in the department of public safety as a policeman or fireman)

63 § 151 (English proficiency requirement for engineers and land surveyors)

63 § 271.8 (English-only requirement for osteopath examinations)

63 § 281-11 (Pawnbroker records and books must be kept in English)

63 § 422.24 (English proficiency requirement for physicians and surgeons)

RHODE ISLAND

R.I. Gen. Laws

§ 2-6-3 (Containers of seed to be labeled in English)

§ 5-37.2-12.1 (English proficiency requirement for doctors of acupuncture)

§§ 17-11-8, -12 (English proficiency requirement for election officials and moderators and clerks of voting districts)

§ 16-25.2-4 (English proficiency requirement for teachers of deaf students)

§ 19-26-5 (Pawnbrokers to keep records in English)

§ 23-24-2 (Hazardous substances must be labeled in English)

§ 23-28.28-30 (English proficiency requirement for drivers of vehicles transporting blasting agents)

§ 30-16-1 (Contracts for construction of bomb shelters must be in English)

SOUTH CAROLINA

S.C. Code

§ 1-1-696 (English language is the official language of the State of South Carolina)

§ 1-1-697 (Use of language other than English prohibited except to increase proficiency in English)

§ 14-7-810 (English proficiency requirement for jurors)

§ 23-39-20 (Hazardous substances warnings must be in English)

§ 33-1-200 (Partnership documents must be in English)

§ 40-22-260 (English proficiency requirement for engineers and land surveyors)

§ 40-41-50 (Formulas of medicines must be placed on packages or bottles in English)

§ 40-28-110 (English proficiency requirement for landscape architects in order to be eligible for registration)

§ 40-43-50 (English proficiency requirement for licensed pharmacists)

§ 40-45-100 (English proficiency requirement for physical therapists)

§ 46-21-210 (Agricultural seeds must be labeled in English)

§ 46-27-310 (Commercial feeds must be labeled in English)

§ 59-103-160 (English proficiency requirement for instructional faculty)

SOUTH DAKOTA

S.D. Codified Laws

§ 1-27-22(6) (Expert testimony must be translated into English for deliberations and records)

§§ 9-13-21, 9-16-2, 9-16-23 (Ballots and voter instruction cards must be printed in English)

§ 16-13-10 (English proficiency requirement for jurors)

§ 17-2-2.1 (Legal notices must be published in newspapers printed in English)

§ 58-37A-7, -10 (Fraternal benefit societies must keep minutes and file documents in English)

S.D. Admin. R.

20:38:14:02 (English proficiency required to take examinations administered by state Board of Technical Professions)

20:51:01:10 (English proficiency requirement for pharmacists)

61:09:06:01 (English proficiency requirement for certificate of authorization to possess explosive devices for the protection of sunflower crops from depredating birds)

TENNESSEE

Tenn. Code

§ 4-1-404 (English is the official and legal language of Tennessee)

§ 43-10-104 (Agricultural and vegetable seeds must be labeled in English)

§ 48-11-301 (Corporate documents must be in the English language)

§ 56-25-1202 (Minutes of fraternal benefit society must be kept in English)

§ 61-2-1101 (Limited partnership documents must be kept in English)

§ 62-2-301 (English proficiency requirement for architects, engineers and landscape architects in order to be eligible for registration)

§ 62-18-109 (English proficiency requirement for land surveyors in order to be eligible for registration)

§ 63-3-111 (Podiatrist examination must be in English)

§ 63-12-115 (Veterinarian examination must be in English)

§ 68-27-102 (Hazardous substance warnings must be in English)

TEXAS

Tex. Health & Safety Code § 345.021 (Bedding must be labeled in English)

Tex. Educ. Code § 51.917 (Classes, other than foreign language classes, must be taught in English)

Tex. Educ. Code § 28.005 (Declaring English to be the basic language of instruction in public schools)

Tex. Transp. Code § 522.043 (English proficiency requirement for interstate commercial driver's license)

Tex. Prop. Code § 11.002 (Public records of real or personal property must be in English)

Tex. Agric. Code § 72.005 (A report, notice, statement, or record filed under the Mexican Fruit Fly Control chapter must be in English)

Tex. Admin. Code tit.

22, § 71.6 (English-only requirement for chiropractic examinations)

22, § 131.52 (English proficiency required to obtain engineering license)

22, § 163.3 (English proficiency required to obtain medical license)

22, § 217.4 (English proficiency required to obtain nursing license)

22, § 329.1 (English proficiency required to obtain physical therapist license)

37, § 15.52 (Applicant must understand highway signs in the English language to obtain driver's license)

37, § 16.8 (English proficiency required for commercial driver's license to drive in interstate commerce)

UTAH

Utah Code

§ 16-6A-105 (Requiring documents presented for filing to be in English)

§ 16-10A-120 (Requiring documents presented for filing to be in English)

§ 58-67-302 (English proficiency requirement to obtain license as physician or surgeon)

§ 58-68-302 (English proficiency requirement to obtain license as osteopathic physician or surgeon)

§ 58-69-302 (English proficiency requirement to obtain license as dentist or dental hygienist)

§ 58-71-302 (English proficiency requirement to obtain license as naturopathic physician)

§ 61-2-6 (Applicants for license as real estate principal broker, associate broker, or sales agent must pass examination that includes English proficiency component)

§ 76-10-907 (Junk dealers and scrap metal processors required to maintain records in English)

§ 78-7-22 (Requiring that judicial proceedings be conducted in English)

§ 78-46-7 (English proficiency requirement for jury service)

Utah Rules of Civil Procedure, Rule 4 (Requiring that legal notice by publication be given in English)

VERMONT

Vt. Stat. tit.

4 § 731 ("Writs, processes, complaints, informations, indictments, pleas, answers and entries in the courts, except technical terms, shall be in the English language.")

4 § 962 (English proficiency required for jury service)

8 § 4464 (Requiring documents filed by fraternal benefit societies to be in English)

8 § 4495 (Requiring minutes of meetings of fraternal benefit societies to be kept in English)

9 § 2942 (Requiring bedding and upholstered furniture to be labeled in English)

9 § 3802 (Requiring paints to be labeled in English)

9 § 3865 (Requiring pawnbrokers to keep books in English)

11A § 1.20, 11B V.S.A. § 1.20 (Requiring corporate documents filed with the secretary of state to be in English)

11B § 1.20 (English proficiency required to take examination for medical license)

26 § 1393 (English-only requirement for medical examinations)

26 § 1396 (English proficiency required for admission to practice medicine)

27 § 1226 (Notice of sale of abandoned property must be published in English)

VIRGINIA

Va. Code

§§ 3.1-106.5, -126.3, -264, -828.5, -832 (Requirement that regulated products be labeled in English)

§ 4.1-222 (English proficiency requirement to obtain license from Alcoholic Beverage Control Board)

§ 7.1-42 (Designating English as the official language of the Commonwealth)

§ 8.01-324 (Requiring that legal notices be published in a newspaper printed in the English language)

§§ 13.1-604, -804, -1003 (Requiring corporate documents to be filed in English)

§ 38.2-4106 (Requiring the minutes of meetings of fraternal benefit societies to be in English)

§ 47.1-4 (English proficiency requirement for appointment as a notary public)

§ 50-73.17, -73.83 (Requiring partnership documents to be filed in English)

§ 54.1-3312 (English proficiency requirement to obtain license as a pharmacist)

§ 55-210.13 (Requiring report of treasurer to be published in a newspaper printed in English)

§ 55-210.18 (Requiring notice of sale of abandoned property to be published in English language newspaper)

U.S. Dist. Ct. Rules W.D.Va., Pt. 28 (English proficiency requirement for jury service)

12 Va. Admin. Code § 5-30-270 (English proficiency requirement for personnel involved in the delivery of Emergency Medical Services)

18 Va. Admin. Code § 10-20-250 (English proficiency requirement to obtain professional engineering license)

24 Va. Admin. Code § 15-170-100 (English proficiency required to drive motor tank truck transporting petroleum products)

WASHINGTON

Wash. Rev. Code

§ 2.36.070 (English proficiency requirement for jury service)

§ 18.06.090 (English proficiency requirement for acupuncturist)

§ 18.50.060 (Midwifery examination must be in English)

§ 18.57.080 (Examinations in osteopathy must be in English)

§ 18.71.051 (English proficiency requirement for physicians)

§ 18.85.130 (English proficiency requirement for real estate agents)

§ 18.92.100 (English-only requirement for examinations for license to practice veterinary medicine)

§ 23B.01.200 (Business corporation documents must be filed in English)

§ 30.42.200 (Books and accounts of banks and trusts shall be kept in English)

§ 41.08.070 (English proficiency requirement for civil service employment)

§ 42.44.20 (English proficiency requirement for notaries public)

§ 45.40.010 (English proficiency requirement for judge or clerk of election)

§ 48.36A.070 (Fraternal benefit society minutes must be kept in English)

§ 65.16.020 (A legal newspaper must be published in English)

§ 81.40.110 (English proficiency requirement for railroad flagman)

WEST VIRGINIA

W. Va. Code

§ 3-1-28 (English proficiency requirement for election officials)

§ 16-7-2 (Articles or ingredients of articles of food or drink must be labeled in English)

§ 18-2-7 ("The basic language of instruction in all schools, public, private and parochial, shall be the English language only.")

§ 19-16-2 (Containers of seed to be labeled in English)

§ 21-6-3 (Minor seeking work permit must provide proof of school attendance or demonstrate proficiency in English language)

§ 22A-2-54 (Mining rules and regulations to be posted in English)

§ 22A-8-6 (English-only requirement for certification examination for underground and surface miners)

§ 29C-7-101 (English proficiency requirement for notaries public)

§ 30-3-10 (English proficiency requirement for physicians, surgeons and podiatrists; examinations for such professions given only in English)

§ 30-7-7 (English proficiency requirement for registered nurses)

§ 30-16-8 (English proficiency requirement for chiropractors)

§ 52-1-8 (English proficiency requirement for jury service)

§ 61-3-49a (Secondhand watches must be labeled in English)

WISCONSIN

Wis. Stat.

§ 7.30 (English proficiency requirement for election officials)

§ 29.09 (Hunting, trapping and fishing licenses shall be in English)

§ 29.134 (Fur dealers must keep books in English)

§ 29.137 (Bait dealers must keep books in English)

§ 29.544 (Wild rice dealers must keep books in English)

§ 35.35 (All printing of proposed constitutional amendments and resolutions must be in English)

§ 94.39 (Agricultural and vegetable seed labels must be in English)

§ 94.72 (Commercial seed labels must be in English)

§ 100.35 (Furs must be labeled in English)

§ 132.13 (Prison-made goods must be labeled in English)

§ 180.0120 (Filing of business corporation documents must written be in English)

§ 452.09 (English proficiency requirement for real estate license)

§ 756.01 (English proficiency requirement for jury service)

§ 757.18 (All court proceedings and documents filed in court must be in English)

WYOMING

Wyo. Stat.

§ 1-11-101 (English proficiency requirement for jury service)

§ 11-12-105 (Seeds must be labeled in English)

§ 11-13-103 (Commercial seed labels must be in English)

§ 11-17-105 (Every container of livestock remedy must be labeled in English)

§ 15-5-114 (English proficiency requirement for employment by fire and police departments)

§ 17-16-120 (Business corporation filings must be written in English)

§ 26-29-207 (Fraternal benefit society minutes must be kept in English)

§ 32-1-101 (English proficiency requirement for notaries public)

§ 33-9-105 (English-only requirement for podiatry examination)

§ 33-17-104 (Hotel room rates to be posted in English in each guest room)

§ 33-18-102 (Books and records of junk dealers must be kept in English)